

CHAPTER 554. REAL AND PERSONAL PROPERTY REVISED STATUTES OF 1846

CHAPTER 62

Chapter 62. Of The Nature And Qualities Of Estates In Real And Personal Property, And The Alienation Thereof.

554.1 Estates in lands; kinds as respects length of enjoyment.

Sec. 1. Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

History: R.S. 1846, Ch. 62;—CL 1857, 2585;—CL 1871, 4068;—How. 5517;—CL 1897, 8783;—CL 1915, 11519;—CL 1929, 12921;—CL 1948, 554.1.

554.2 Estate of inheritance; fee simple.

Sec. 2. Every estate of inheritance shall continue to be termed a fee simple, or fee; and every such estate, when not defeasible or conditional, shall be a fee simple absolute, or an absolute fee.

History: R.S. 1846, Ch. 62;—CL 1857, 2586;—CL 1871, 4069;—How. 5518;—CL 1897, 8784;—CL 1915, 11520;—CL 1929, 12922;—CL 1948, 554.2.

554.3 Estate of inheritance; fee tail; abolition, declaration as fee simple.

Sec. 3. All estates tail are abolished, and every estate which would be adjudged a fee tail, according to the law of the territory of Michigan, as it existed before the second day of March, 1821, shall for all purposes be adjudged a fee simple; and if no valid remainder be limited thereon, shall be a fee simple absolute.

History: R.S. 1846, Ch. 62;—CL 1857, 2587;—CL 1871, 4070;—How. 5519;—CL 1897, 8785;—CL 1915, 11521;—CL 1929, 12923;—CL 1948, 554.3.

Former law: See Act of March 2, 1821; Code of 1820, p. 393; 1 Terr. Laws 815; and Revision of 1827, p. 261.

554.4 Estate of inheritance; remainder in fee after a fee tail; validity.

Sec. 4. When a remainder in fee shall be limited upon any estate which would be adjudged a fee tail according to the law of the territory of Michigan as it existed previous to the time mentioned in the preceding section, such remainder shall be valid as a contingent limitation upon a fee, and shall vest in possession, on the death of the first taker, without issue living at the time of such death.

History: R.S. 1846, Ch. 62;—CL 1857, 2588;—CL 1871, 4071;—How. 5520;—CL 1897, 8786;—CL 1915, 11522;—CL 1929, 12924;—CL 1948, 554.4.

554.5 Freehold estates; chattels real; chattel interests.

Sec. 5. Estates of inheritance and for life shall be denominated estates of freehold; estates for years shall be denominated chattels real; and estates at will or by sufferance shall be chattel interests, but shall not be liable as such to sale on executions.

History: R.S. 1846, Ch. 62;—CL 1857, 2589;—CL 1871, 4072;—How. 5521;—CL 1897, 8787;—CL 1915, 11523;—CL 1929, 12925;—CL 1948, 554.5.

554.6 Estate for life of another; nature.

Sec. 6. An estate for the life of a third person, whether limited to heirs or otherwise, shall be deemed a freehold only during the life of the grantee or devisee, but after his death it shall be deemed a chattel real.

History: R.S. 1846, Ch. 62;—CL 1857, 2590;—CL 1871, 4073;—How. 5522;—CL 1897, 8788;—CL 1915, 11524;—CL 1929, 12926;—CL 1948, 554.6.

554.7 Estates in land; kinds as respects time of enjoyment.

Sec. 7. Estates, as respects the time of their enjoyment, are divided into estates in possession, and estates in expectancy.

History: R.S. 1846, Ch. 62;—CL 1857, 2591;—CL 1871, 4074;—How. 5523;—CL 1897, 8789;—CL 1915, 11525;—CL 1929, 12927;—CL 1948, 554.7.

554.8 Estates in possession and in expectancy; definition.

Sec. 8. An estate in possession, is where the owner has an immediate right to the possession of the land; an estate in expectancy is where the right to the possession is postponed to a future period.

History: R.S. 1846, Ch. 62;—CL 1857, 2592;—CL 1871, 4075;—How. 5524;—CL 1897, 8790;—CL 1915, 11526;—CL 1929,

12928;—CL 1948, 554.8.

554.9 Estates in expectancy; classifications.

Sec. 9. Estates in expectancy are divided into,

First. Estates commencing at a future day, denominated future estates; and,
Second. Reversions.

History: R.S. 1846, Ch. 62;—CL 1857, 2593;—CL 1871, 4076;—How. 5525;—CL 1897, 8791;—CL 1915, 11527;—CL 1929, 12929;—CL 1948, 554.9.

554.10 Future estate; definition.

Sec. 10. A future estate is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate, or on the determination, by lapse of time or otherwise, of a precedent estate, created at the same time.

History: R.S. 1846, Ch. 62;—CL 1857, 2594;—CL 1871, 4077;—How. 5526;—CL 1897, 8792;—CL 1915, 11528;—CL 1929, 12930;—CL 1948, 554.10.

554.11 Future estate; remainder.

Sec. 11. When a future estate is dependent upon a precedent estate, it may be termed a remainder, and may be created and transferred by that name.

History: R.S. 1846, Ch. 62;—CL 1857, 2595;—CL 1871, 4078;—How. 5527;—CL 1897, 8793;—CL 1915, 11529;—CL 1929, 12931;—CL 1948, 554.11.

554.12 Reversion; definition.

Sec. 12. A reversion is the residue of an estate left in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

History: R.S. 1846, Ch. 62;—CL 1857, 2596;—CL 1871, 4079;—How. 5528;—CL 1897, 8794;—CL 1915, 11530;—CL 1929, 12932;—CL 1948, 554.12.

554.13 Future estates; classifications, definitions.

Sec. 13. Future estates are either vested or contingent:

They are vested when there is a person in being who would have an immediate right to the possession of the lands, upon the ceasing of the intermediate or precedent estate.

They are contingent whilst the person to whom, or the event upon which they are limited to take effect remains uncertain.

History: R.S. 1846, Ch. 62;—CL 1857, 2597;—CL 1871, 4080;—How. 5529;—CL 1897, 8795;—CL 1915, 11531;—CL 1929, 12933;—CL 1948, 554.13.

554.14-554.20 Repealed. 1949, Act 38, Eff. Sept. 23, 1949.

Compiler's note: The repealed sections pertained to suspension of power of alienation; contingent remainder in fee on prior remainder in fee; successive life estates; remainders upon certain life estates; and contingent remainder on terms for years.

554.21 Repealed. 1988, Act 417, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed section pertained to life estates.

554.22 Heirs and issue; construction as used in remainders.

Sec. 22. When a remainder shall be limited to take effect on the death of any person without heirs, or heirs of his body, or without issue, the words “heirs” or “issues” shall be construed to mean heirs or issue living at the death of the person named as ancestor.

History: R.S. 1846, Ch. 62;—CL 1857, 2606;—CL 1871, 4089;—How. 5538;—CL 1897, 8804;—CL 1915, 11540;—CL 1929, 12942;—CL 1948, 554.22.

554.23 Repealed. 1949, Act 38, Eff. Sept. 23, 1949.

Compiler's note: The repealed section pertained to limitations of chattels real.

554.24 Estates to commence in future; estates in term for years.

Sec. 24. Subject to the rules established in the preceding sections of this chapter, a freehold estate, as well as a chattel real, may be created to commence at a future day, an estate for life may be created in a term of years, and a remainder limited thereon.

History: R.S. 1846, Ch. 62;—CL 1857, 2608;—CL 1871, 4091;—How. 5540;—CL 1897, 8806;—CL 1915, 11542;—CL 1929, 12944;—CL 1948, 554.24.

554.25 Alternative future estates.

Sec. 25. Two or more future estates may also be created to take effect in the alternative, so that if the first in order should fail to vest, the next in succession shall be substituted for it, and take effect accordingly.

History: R.S. 1846, Ch. 62;—CL 1857, 2609;—CL 1871, 4092;—How. 5541;—CL 1897, 8807;—CL 1915, 11543;—CL 1929, 12945;—CL 1948, 554.25.

554.26 Future estates; validity as affected by probability of contingency.

Sec. 26. No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.

History: R.S. 1846, Ch. 62;—CL 1857, 2610;—CL 1871, 4093;—How. 5542;—CL 1897, 8808;—CL 1915, 11544;—CL 1929, 12946;—CL 1948, 554.26.

554.27 Remainder on contingency defeating prior estate; construction.

Sec. 27. A remainder may be limited on a contingency, which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation, and shall have the same effect as such a limitation would have by law.

History: R.S. 1846, Ch. 62;—CL 1857, 2611;—CL 1871, 4094;—How. 5543;—CL 1897, 8809;—CL 1915, 11545;—CL 1929, 12947;—CL 1948, 554.27.

554.28 Rule in Shelly's Case; abolition.

Sec. 28. When a remainder shall be limited to the heir, or heirs of the body of a person to whom a life estate in the same premises shall be given, the persons who, on the termination of the life estate, shall be the heir, or heirs of the body of such tenant for life, shall be entitled to take as purchasers, by virtue of the remainder so limited to them.

History: R.S. 1846, Ch. 62;—CL 1857, 2612;—CL 1871, 4095;—How. 5544;—CL 1897, 8810;—CL 1915, 11546;—CL 1929, 12948;—CL 1948, 554.28.

554.29 Remainder not contingency defeating prior estate; construction.

Sec. 29. When a remainder on an estate for life, or for years, shall not be limited on a contingency, defeating or avoiding such precedent estate, it shall be construed as intended to take effect only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

History: R.S. 1846, Ch. 62;—CL 1857, 2613;—CL 1871, 4096;—How. 5545;—CL 1897, 8811;—CL 1915, 11547;—CL 1929, 12949;—CL 1948, 554.29.

554.30 Posthumous child; right to take estate.

Sec. 30. When a future estate shall be limited to heirs, or issue, or children, posthumous children shall be entitled to take, in the same manner as if born before the death of their parents.

History: R.S. 1846, Ch. 62;—CL 1857, 2614;—CL 1871, 4097;—How. 5546;—CL 1897, 8812;—CL 1915, 11548;—CL 1929, 12950;—CL 1948, 554.30.

554.31 Posthumous child; effect of birth on certain future estates.

Sec. 31. A future estate depending on the contingency of the death of any person without heirs or issue, or children, shall be defeated by the birth of a posthumous child of such person, capable of taking by descent.

History: R.S. 1846, Ch. 62;—CL 1857, 2615;—CL 1871, 4098;—How. 5547;—CL 1897, 8813;—CL 1915, 11549;—CL 1929, 12951;—CL 1948, 554.31.

554.32 Expectant estates; effect of alienation or destruction of precedent estate.

Sec. 32. No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate by disseizin, forfeiture, surrender, merger, or otherwise.

History: R.S. 1846, Ch. 62;—CL 1857, 2616;—CL 1871, 4099;—How. 5548;—CL 1897, 8814;—CL 1915, 11550;—CL 1929, 12952;—CL 1948, 554.32.

554.33 Expectant estates; authorized method of defeasance, effect on original validity.

Sec. 33. The last preceding section shall not be construed to prevent an expectant estate from being defeated in any manner, or by any act or means which the party creating such estate shall, in the creation thereof, have provided or authorized; nor shall an expectant estate thus liable to be defeated, be on that ground adjudged void in its creation.

History: R.S. 1846, Ch. 62;—CL 1857, 2617;—CL 1871, 4100;—How. 5549;—CL 1897, 8815;—CL 1915, 11551;—CL 1929, 12953;—CL 1948, 554.33.

554.34 Contingent remainder; effect of premature determination of precedent estate.

Sec. 34. No remainder, valid in its creation, shall be defeated by the determination of the precedent estate, before the happening of the contingency on which the remainder is limited to take effect; but should such contingency afterwards happen, the remainder shall take effect in the same manner, and to the same extent, as if the precedent estate had continued to the same period.

History: R.S. 1846, Ch. 62;—CL 1857, 2618;—CL 1871, 4101;—How. 5550;—CL 1897, 8816;—CL 1915, 11552;—CL 1929, 12954;—CL 1948, 554.34.

554.35 Expectant estates; qualities.

Sec. 35. Expectant estates are descendible, devisable and alienable, in the same manner as estates in possession.

History: R.S. 1846, Ch. 62;—CL 1857, 2619;—CL 1871, 4102;—How. 5551;—CL 1897, 8817;—CL 1915, 11553;—CL 1929, 12955;—CL 1948, 554.35.

554.36 Rents and profits to accrue; disposition.

Sec. 36. Dispositions of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument creating such disposition, shall be governed by the rules established in this chapter in relation to future estates in lands.

History: R.S. 1846, Ch. 62;—CL 1857, 2620;—CL 1871, 4103;—How. 5552;—CL 1897, 8818;—CL 1915, 11554;—CL 1929, 12956;—CL 1948, 554.36.

554.37, 554.38 Repealed. 1952, Act 6, Eff. Sept. 18, 1952.

Compiler's note: The repealed sections pertained to valid and invalid accumulations of rents and profits of real estate.

554.39, 554.40 Repealed. 1952, Act 7, Eff. Sept. 18, 1952.

Compiler's note: The repealed sections pertained to accumulation of rents and profits of real estate for benefit of infants entitled to expectant estate and of person entitled in absence of disposition of rents and profits of real estate.

554.41 Expectant estates; time of creation.

Sec. 41. The delivery of the grant, where an expectant estate is created by grant; and where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

History: R.S. 1846, Ch. 62;—CL 1857, 2625;—CL 1871, 4108;—How. 5557;—CL 1897, 8823;—CL 1915, 11559;—CL 1929, 12961;—CL 1948, 554.41.

554.42 Expectant estates; abolition, exceptions.

Sec. 42. All expectant estates, except such as are enumerated and defined in this chapter, are abolished.

History: R.S. 1846, Ch. 62;—CL 1857, 2626;—CL 1871, 4109;—How. 5558;—CL 1897, 8824;—CL 1915, 11560;—CL 1929, 12962;—CL 1948, 554.42.

554.43 Estates; kinds in respect to number and connection of owners; nature.

Sec. 43. Estates, in respect to the number and connection of their owners, are divided into estates in severalty, in joint tenancy, and in common; the nature and properties of which respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of this chapter.

History: R.S. 1846, Ch. 62;—CL 1857, 2627;—CL 1871, 4110;—How. 5559;—CL 1897, 8825;—CL 1915, 11561;—CL 1929, 12963;—CL 1948, 554.43.

554.44 Land conveyance to two or more persons; estate created.

Sec. 44. All grants and devises of lands, made to 2 or more persons, except as provided in the following section, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy.

History: R.S. 1846, Ch. 62;—CL 1857, 2628;—CL 1871, 4111;—How. 5560;—CL 1897, 8826;—CL 1915, 11562;—CL 1929, 12964;—CL 1948, 554.44.

554.45 Land conveyance; exceptions to preceding section.

Sec. 45. The preceding section shall not apply to mortgages, nor to devises or grants made in trust, or made to executors, or to husband and wife.

History: R.S. 1846, Ch. 62;—CL 1857, 2629;—CL 1871, 4112;—How. 5561;—CL 1897, 8827;—CL 1915, 11563;—CL 1929, 12965;—CL 1948, 554.45.

554.46 Land conveyance; nominal conditions; effect of failure to perform.

Sec. 46. When any conditions annexed to a grant or conveyance of lands are merely nominal and evince no intention of actual and substantial benefit to the party to whom or in whose favor they are to be performed, they may be wholly disregarded, and a failure to perform the same shall in no case operate as a forfeiture of the lands conveyed subject thereto.

History: R.S. 1846, Ch. 62;—CL 1857, 2630;—CL 1871, 4113;—How. 5562;—CL 1897, 8828;—CL 1915, 11564;—CL 1929, 12966;—CL 1948, 554.46.

RULE AGAINST PERPETUITIES
Act 38 of 1949

AN ACT concerning perpetuities and the suspension of the absolute power of alienation with respect to interests in real property, making uniform the law as to real and personal property; and repealing sections 14, 15, 16, 17, 18, 19, 20 and 23 of chapter 62 of the Revised Statutes of 1846, being sections 554.14, 554.15, 554.16, 554.17, 554.18, 554.19, 554.20 and 554.23, respectively, of the Compiled Laws of 1948.

History: 1949, Act 38, Eff. Sept. 23, 1949.

The People of the State of Michigan enact:

554.51 Rule against perpetuities; applicability; uniformity.

Sec. 1. The common law rule known as the rule against perpetuities now in force in this state as to personal property shall hereafter be applicable to real property and estates and other interests therein, whether freehold or non-freehold, legal or equitable, by way of trust or otherwise, thereby making uniform the rule as to perpetuities applicable to real and personal property.

History: 1949, Act 38, Eff. Sept. 23, 1949.

554.52 Sections repealed.

Sec. 2. Sections 14, 15, 16, 17, 18, 19, 20 and 23 of chapter 62 of the Revised Statutes of 1846, being sections 554.14, 554.15, 554.16, 554.17, 554.18, 554.19, 554.20 and 554.23, respectively, of the Compiled Laws of 1948, concerning perpetuities and the suspension of the absolute power of alienation, are hereby repealed.

History: 1949, Act 38, Eff. Sept. 23, 1949.

554.53 Applicability of act to nonvested property interests.

Sec. 3. This act applies only to nonvested property interests created after September 23, 1949. Unless as otherwise provided by statute, this act shall not apply to nonvested property interests created on or after the effective date of the uniform statutory rule against perpetuities.

History: 1949, Act 38, Eff. Sept. 23, 1949;—Am. 1988, Act 417, Imd. Eff. Dec. 27, 1988.

POSSIBILITIES OF REVERTER AND RIGHTS OF ENTRY
Act 13 of 1968

AN ACT to limit the duration of possibilities of reverter and rights of entry in conveyances of real property in certain cases.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

The People of the State of Michigan enact:

554.61 Terminable interest, specified contingency; definitions.

Sec. 1. As used in this act:

(a) "Terminable interest" is a possessory or ownership interest in real property which is subject to termination by a provision in a conveyance or other instrument which either creates a right of reversion to a grantor or his heirs, successors or assigns or creates a right of entry on the occurrence of a specified contingency.

(b) "Specified contingency" is the event described in a conveyance or other instrument creating a terminable interest, the occurrence of which requires or permits the divesting of the terminable interest.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

554.62 Specified contingency; termination right; limitation period.

Sec. 2. If the specified contingency does not occur within 30 years after the terminable interest is created, the right of termination by reason of the specified contingency shall be unenforceable.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

554.63 Existing termination rights limitation.

Sec. 3. A right of termination under a terminable interest which was created prior to the effective date of this act is unenforceable if the specified contingency does not occur within 30 years after the terminable interest was created or within 1 year after the effective date of this act, whichever is later.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

554.64 Exemptions to act.

Sec. 4. This act does not apply:

- (a) To a lease for a term of years.
- (b) If the specified contingency must occur, if at all, within the period of the rule against perpetuities.
- (c) If the terminable interest is held for public, educational, religious or charitable purposes.
- (d) If the terminable interest is created in a conveyance from the United States of America, the state or any agency or political subdivision of either of them.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

554.65 Right of termination; preservation; notice, recording.

Sec. 5. A right of termination may be preserved by the recording, within a period of not less than 25 nor more than 30 years after creation of the terminable interest or within 1 year after the effective date of this act, whichever is later, of a written notice that the owner of such right of termination desires to preserve the same, such notice to be recorded in the register of deeds office of the county where the real property subject to such right of termination is located. Such notice shall be verified by oath, shall describe the land involved and the nature of such right of termination, including the specified contingency, and shall state the name and address of the owner of such right of termination. The recording of such notice shall operate to preserve such right of termination from the operation of this act for a period of 30 years from the date of recording of such notice.

History: 1968, Act 13, Imd. Eff. Mar. 29, 1968.

UNIFORM STATUTORY RULE AGAINST PERPETUITIES
Act 418 of 1988

AN ACT to adopt the uniform statutory rule against perpetuities.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

The People of the State of Michigan enact:

554.71 Short title.

Sec. 1. This act shall be known and may be cited as the “uniform statutory rule against perpetuities”.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

554.72 Nonvested property interest; general power of appointment, nongeneral power of appointment, or general testamentary power of appointment; validity; language measuring time period from creation of trust or other property arrangement.

Sec. 2. (1) Subject to section 5, a nonvested property interest is invalid unless 1 or more of the following are applicable to the interest:

(a) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive.

(b) The interest either vests or terminates within 90 years after its creation.

(2) Subject to section 5, a general power of appointment not presently exercisable because of a condition precedent is invalid unless 1 or more of the following are applicable to the power:

(a) When the power is created, the condition precedent is certain either to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive.

(b) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(3) Subject to section 5, a nongeneral power of appointment or a general testamentary power of appointment is invalid unless 1 or more of the following are applicable to the power:

(a) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive.

(b) The power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(4) In determining whether a nonvested property interest or a power of appointment is valid under subsection (1)(a), (2)(a), or (3)(a), the possibility that a child will be born to an individual after the individual's death is disregarded.

(5) If, in measuring a period from the creation of a trust or other property arrangement that was irrevocable on September 25, 1985, language in an instrument governing the effect of an exercise of a power of appointment over property exempt from federal generation skipping transfer tax (a) seeks to disallow the vesting or termination of any interest or trust beyond, (b) seeks to postpone the vesting or termination of any interest or trust until, or (c) seeks to operate in effect in any similar fashion upon, the later of (i) the expiration of a period of time ending with, or not exceeding 21 years after, the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (ii) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988;—Am. 2008, Act 149, Imd. Eff. May 28, 2008.

554.73 Nonvested property interest or power of appointment; time of creation.

Sec. 3. (1) Except as provided in subsections (2), (3), and section 6(1), the time of creation of a nonvested property interest or a power of appointment shall be determined by statutory or common law.

(2) For purposes of this act, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 2(2) or (3), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(3) For purposes of this act, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

554.74 Reforming disposition; petition.

Sec. 4. Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution that is within the 90 years allowed by section 2(1)(b), (2)(b), or (3)(b) and 1 or more of the following are applicable:

- (a) A nonvested property interest or a power of appointment becomes invalid under section 2.
- (b) A class gift is not but might become invalid under section 2 and the time has arrived when the share of any class member is to take effect in possession or enjoyment.
- (c) A nonvested property interest that is not validated by section 2(1)(a) can vest but not within 90 years after its creation.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

554.75 Applicability of MCL 554.72.

Sec. 5. (1) Section 2 does not apply to any of the following:

- (a) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of a premarital or postmarital agreement; a separation or divorce settlement; a spouse's election; a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties; a contract to make or not to revoke a will or trust; a contract to exercise or not to exercise a power of appointment; a transfer in satisfaction of a duty of support; or a reciprocal transfer.
- (b) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income.
- (c) A power to appoint a fiduciary.
- (d) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal.
- (e) A property interest, power of appointment, or any other arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute.
- (f) Except as provided in subsection (2), an interest in, or power of appointment over, personal property held in a trust that is either revocable on or created after the effective date of the personal property trust perpetuities act.

(2) Section 2 is applicable to an interest in, or power of appointment over, personal property held in trust if the interest or power was created, or property was made subject to the interest or power, by the exercise of a second power. If section 2 is applicable to an interest or power under this subsection, it applies only to the extent of the exercise of the second power, and instead of using a period of 90 years to determine whether section 2(1)(b), (2)(b), or (3)(b) is satisfied, or whether to reform a disposition under section 4, a period of 360 years shall be used.

(3) As used in this section, "second power" means that term as defined in section 2 of the personal property trust perpetuities act.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988;—Am. 2008, Act 149, Imd. Eff. May 28, 2008.

554.76 Nonvested property interest or power of appointment to which act applicable; violation of rule against perpetuities; reforming disposition.

Sec. 6. (1) This act applies to a nonvested property interest or a power of appointment that is created on or after the effective date of this act. For purposes of this section, a nonvested property interest or power of appointment created by the exercise of a power of appointment is created when the power has been irrevocably exercised or when a revocable exercise becomes irrevocable.

(2) If a nonvested property interest or a power of appointment was created before the effective date of this act and is determined in a judicial proceeding, commenced on or after the effective date of this act, to violate the rule against perpetuities as it existed before the effective date of this act, a court, upon the petition of an interested person, may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

554.77 Application and construction of act.

Sec. 7. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

554.78 Conditional effective date.

Sec. 8. This act shall not take effect unless House Bill No. 5626 of the 84th Legislature is enacted into law.

History: 1988, Act 418, Imd. Eff. Dec. 27, 1988.

Compiler's note: House Bill No. 5626, referred to in this section, was filed with the Secretary of State December 27, 1988, and became P.A. 1988, No. 417, Imd. Eff. Dec. 27, 1988.

PERSONAL PROPERTY TRUST PERPETUITIES ACT
Act 148 of 2008

AN ACT to exclude certain personal property held in trust from the rule against perpetuities and similar rules that potentially affect the duration of trusts.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

The People of the State of Michigan enact:

554.91 Short title.

Sec. 1. This act shall be known and may be cited as the "personal property trust perpetuities act".

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.92 Definitions.

Sec. 2. As used in this act:

(a) "First power" means a nonfiduciary, nongeneral power of appointment over personal property held in trust that is exercised so as to subject the property to, or to create, another power of appointment.

(b) "Nonfiduciary" means, with respect to a power of appointment, that the power of appointment is not held by a trustee in a fiduciary capacity.

(c) "Second power" means a nonfiduciary power of appointment over personal property held in trust that is created or to which property is subjected by the exercise of a first power and that is not a presently exercisable general power.

(d) "Uniform statutory rule against perpetuities" means the uniform statutory rule against perpetuities, 1988 PA 418, MCL 554.71 to 554.78.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.93 Personal property held in trust; interest in or power of appointment over; validity; exercise of second power; determination under uniform statutory rule against perpetuities.

Sec. 3. (1) Except as provided in subsection (3), an interest in, or power of appointment over, personal property held in trust is not invalidated by a rule against any of the following:

(a) Perpetuities.

(b) Suspension of absolute ownership.

(c) Suspension of the power of alienation.

(d) Accumulations of income.

(2) Except as provided in subsection (3), all of the following may be indefinitely suspended, postponed, or allowed to go on with respect to personal property held in trust:

(a) The vesting of a future interest.

(b) The satisfaction of a condition precedent to the exercise of a general power of appointment.

(c) The exercise of a nongeneral or testamentary power of appointment.

(d) Absolute ownership.

(e) The power of alienation.

(f) Accumulations of income.

(3) If a first power is exercised so as to subject the property to, or to create, a second power, the period during which the vesting of a future interest in the property may be postponed by the exercise of the second power shall be determined under the uniform statutory rule against perpetuities by reference to the time the first power was created. A nonvested interest, general power of appointment not presently exercisable because of a condition precedent, or nongeneral or testamentary power of appointment created, or to which property is subjected, by the exercise of the second power is invalid, to the extent of the exercise of the second power, unless the interest or power satisfies the uniform statutory rule against perpetuities measured from the time of the creation of the first power.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

554.94 Applicability of act to certain personal property.

Sec. 4. This act applies only to a nonvested interest in, or power of appointment over, personal property held in a trust that is either revocable on, or created after, the effective date of this act.

History: 2008, Act 148, Imd. Eff. May 28, 2008.

DEVOLUTION OF EXPECTANT ESTATES
Act 211 of 1931

AN ACT to declare the law governing the devolution of expectant estates and interests in real and personal property.

History: 1931, Act 211, Eff. Sept. 18, 1931.

The People of the State of Michigan enact:

554.101 Expectant estate in realty or personalty; death of owner prior to possession, effect.

Sec. 1. In all cases where the owner of an expectant estate, right or interest in real or personal property, shall die prior to the termination of the precedent or intermediate estate, if the contingency arises by which such owner would have been entitled to an estate in possession if living, his heirs at law if he died intestate, or his devisees or grantees and assigns if he shall have devised or conveyed such right or interest, shall be entitled to the same estate in possession.

History: 1931, Act 211, Eff. Sept. 18, 1931;—CL 1948, 554.101.

REVERSIONARY INTEREST IN LANDS

Act 219 of 1931

AN ACT to authorize the granting, assignment, transfer, conveyance or devise of the reversionary interest in lands conveyed on a condition subsequent.

History: 1931, Act 219, Eff. Sept. 18, 1931.

The People of the State of Michigan enact:

554.111 Reversionary interest in lands conveyed on condition subsequent; transfer; scope of act.

Sec. 1. The reversionary interest in lands conveyed on a condition subsequent may be granted, conveyed, transferred or devised by the owner of such interest, and by the subsequent grantees or devisees thereof, either before or after the right of re-entry becomes effective: Provided, That this act shall not affect any such interest created before it takes effect.

History: 1931, Act 219, Eff. Sept. 18, 1931;—CL 1948, 554.111.

REVISED STATUTES OF 1846

CHAPTER 66

Chapter 66. Of Estates In Dower, By The Curtesy, And General Provisions Concerning Real Estate
(continued).

GENERAL PROVISIONS.

554.131 Rent; liability of person in possession of land.

Sec. 31. Every person in possession of land, out of which any rent is due, whether it was originally demised in fee, or for any other estate of freehold, or for any term of years, shall be liable for the amount or proportion of rent due from the land in his possession, although it be only a part of what was originally demised.

History: R.S. 1846, Ch. 66;—CL 1857, 2804;—CL 1871, 4301;—How. 5771;—CL 1897, 9254;—CL 1915, 11809;—CL 1929, 13489;—CL 1948, 554.131.

554.132 Rent; assumpsit for recovery.

Sec. 32. Such rent may be recovered in an action of debt or assumpsit, and the deed of demise, or other instrument in writing, if there be any showing the provisions of the lease, may be used in evidence by either party to prove the amount due from the defendant.

History: R.S. 1846, Ch. 66;—CL 1857, 2805;—CL 1871, 4302;—How. 5772;—CL 1897, 9255;—CL 1915, 11810;—CL 1929, 13490;—CL 1948, 554.132.

554.133 Rent; other remedies for recovery.

Sec. 33. Nothing contained in the preceding sections shall deprive landlords of any legal remedy for the recovery of their rents, whether secured to them by their leases, or provided by law.

History: R.S. 1846, Ch. 66;—CL 1857, 2806;—CL 1871, 4303;—How. 5773;—CL 1897, 9256;—CL 1915, 11811;—CL 1929, 13491;—CL 1948, 554.133.

554.134 Termination of estate at will or by sufferance or tenancy from year to year.

Sec. 34. (1) Except as provided otherwise in this section, an estate at will or by sufferance may be terminated by either party by giving 1 month's notice to the other party. If the rent reserved in a lease is payable at periods of less than 3 months, the time of notice is sufficient if it is equal to the interval between the times of payment. Notice is not void because it states a day for the termination of the tenancy that does not correspond to the conclusion or commencement of a rental period. The notice terminates the tenancy at the end of a period equal in length to the interval between times of payment.

(2) If a tenant neglects or refuses to pay rent on a lease at will or otherwise, the landlord may terminate the tenancy by giving the tenant a written 7-day notice to quit.

(3) A tenancy from year to year may be terminated by either party by a notice to quit, given at any time to the other party. The notice shall terminate the lease at the expiration of 1 year from the time of the service of the notice.

(4) If a tenant holds over after a lease is terminated pursuant to a clause in the lease providing for

termination because the tenant, a member of the tenant's household, or other person under the tenant's control has manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises, the landlord may terminate the tenancy by giving the tenant a written 24-hour notice to quit. This subsection applies only if a formal police report has been filed by the landlord alleging that the person has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. For purposes of this subsection, "controlled substance" means a substance or a counterfeit substance classified in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

History: R.S. 1846, Ch. 66;—CL 1857, 2807;—CL 1871, 4304;—How. 5774;—Am. 1885, Act 162, Eff. Sept. 19, 1885;—CL 1897, 9257;—CL 1915, 11812;—CL 1929, 13492;—Am. 1935, Act 145, Eff. Sept. 21, 1935;—CL 1948, 554.134;—Am. 1990, Act 311, Imd. Eff. Dec. 14, 1990;—Am. 2004, Act 106, Eff. Sept. 1, 2004.

554.135 Aliens; realty; right to acquire, hold or convey, descent.

Sec. 35. Any alien may acquire and hold lands, or any right thereto or interest therein, by purchase, devise or descent, and he may convey, mortgage and devise the same, and if he shall die intestate, the same shall descend to his heirs; and in all cases such lands shall be held, conveyed, mortgaged or devised, or shall descend in like manner, and with like effect, as if such alien were a native citizen of this state, or of the United States.

History: R.S. 1846, Ch. 66;—CL 1857, 2808;—CL 1871, 4305;—How. 5775;—CL 1897, 9258;—CL 1915, 11813;—CL 1929, 13493;—CL 1948, 554.135.

Former law: See Act of Aug. 12, 1805; Woodward Code (1805), p. 32; 1 Terr. Laws 32; Cass Code (1816), p. 32; and 1 Terr. Laws 135.

554.136 Aliens; effect of prior deals in realty on title.

Sec. 36. The title to any lands heretofore conveyed shall not be questioned, nor in any manner affected, by reason of the alienage of any person from or through whom such title may have been derived.

History: R.S. 1846, Ch. 66;—CL 1857, 2809;—CL 1871, 4306;—How. 5776;—CL 1897, 9259;—CL 1915, 11814;—CL 1929, 13494;—CL 1948, 554.136.

554.137 Remainderman or reversioner; right to sue for injury.

Sec. 37. A person seized of an estate in remainder or reversion, may maintain an action of trespass on the case, for any injury done to the inheritance, notwithstanding any intervening estate for life or years.

History: R.S. 1846, Ch. 66;—CL 1857, 2810;—CL 1871, 4307;—How. 5777;—CL 1897, 9260;—CL 1915, 11815;—CL 1929, 13495;—CL 1948, 554.137.

554.138 Joint tenant or tenant in common; action against cotenant.

Sec. 38. One joint tenant or tenant in common, and his executors or administrators, may maintain an action for money had and received, against his co-tenant for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

History: R.S. 1846, Ch. 66;—CL 1857, 2811;—CL 1871, 4308;—How. 5778;—CL 1897, 9261;—CL 1915, 11816;—CL 1929, 13496;—CL 1948, 554.138.

554.139 Lease or license of residential premises; covenants; modifications; liberal construction, inspection.

Sec. 39. (1) In every lease or license of residential premises, the lessor or licensor covenants:

(a) That the premises and all common areas are fit for the use intended by the parties.

(b) To keep the premises in reasonable repair during the term of the lease or license, and to comply with the applicable health and safety laws of the state and of the local unit of government where the premises are located, except when the disrepair or violation of the applicable health or safety laws has been caused by the tenants wilful or irresponsible conduct or lack of conduct.

(2) The parties to the lease or license may modify the obligations imposed by this section where the lease or license has a current term of at least 1 year.

(3) The provisions of this section shall be liberally construed, and the privilege of a prospective lessee or licensee to inspect the premises before concluding a lease or license shall not defeat his right to have the benefit of the covenants established herein.

History: Add. 1968, Act 295, Eff. Oct. 1, 1968.

UNTENANTABLE BUILDINGS
Act 42 of 1917

AN ACT to provide for the surrender by lessees or occupants of any leased property destroyed or rendered untenable or unfit for occupancy.

History: 1917, Act 42, Eff. Aug. 10, 1917.

The People of the State of Michigan enact:

554.201 Untenable building; surrender, liability of lessee for rent.

Sec. 1. When any leased or rented building is destroyed, or is so injured by the elements, or in any other way, as to be untenable or unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his fault or neglect, quit and surrender possession of the building, and of the land so injured, destroyed, or rendered untenable or unfit for occupancy; and such lessee or occupant shall not be liable to pay to the lessor or owner rent for the time subsequent to the surrender.

History: 1917, Act 42, Eff. Aug. 10, 1917;—CL 1929, 13497;—CL 1948, 554.201.

RENTS AND PROFITS UNDER TRUST MORTGAGE
Act 228 of 1925

AN ACT to authorize the assignment of rents and profits of property mortgaged under a trust mortgage or deed of trust, to secure bonds or obligations issued or to be issued thereunder.

History: 1925, Act 228, Eff. Aug. 27, 1925.

The People of the State of Michigan enact:

554.211 Assignment of rents and profits under trust mortgage or deed; lawfulness.

Sec. 1. Hereafter, in or in connection with any trust mortgage or deed of trust, to secure bonds or obligations issued or to be issued thereunder, it shall be lawful to assign the rents and profits of the property mortgaged to the trustee or trustees under the trust mortgage or deed of trust for the benefit of the bondholders and holders of the obligations issued or to be issued under the trust mortgage or deed of trust.

History: 1925, Act 228, Eff. Aug. 27, 1925;—CL 1929, 13498;—CL 1948, 554.211.

554.212 Assignment; validity against mortgagor and occupiers of premises.

Sec. 2. The assignment of rents and profits, when so made, shall be a good and valid assignment of rents as against the mortgagor or mortgagors or those claiming under or through them from the date of the recording of the trust mortgage or deed of trust, and shall operate against and be binding upon the occupiers of the premises from the date of the filing by the trustee or trustees in the office of the register of deeds for the county in which the property is located of a notice of default in the terms and conditions of the trust mortgage or deed of trust, and service of a copy of such notice upon the occupiers of the mortgaged premises.

History: 1925, Act 228, Eff. Aug. 27, 1925;—CL 1929, 13499;—CL 1948, 554.212.

554.213 Trust mortgage; definition.

Sec. 3. The term "trust mortgage" as used in this act, means and includes, among other forms of trust mortgages, any mortgage given to any person or corporation engaged in the business of financing or refinancing buildings or building enterprises, securing a note, notes, bonds or obligations, and which by its terms contemplates a sale thereof in part or parts and which is actually sold in part or parts in form of certificates of participation or by assignments of undivided interests therein.

History: Add. 1933, Act 55, Imd. Eff. Apr. 14, 1933;—CL 1948, 554.213.

554.214 Emergency legislation; immediate necessity; liberal construction.

Sec. 4. That by reason of the acute financial and economic condition, which has arisen and now exists in the state of Michigan an emergency exists, which requires special legislation under the police power of the state, and that this act is enacted to meet such emergency and is hereby declared to be immediately necessary for the preservation of the public peace, health and safety and shall be liberally construed.

History: Add. 1933, Act 55, Imd. Eff. Apr. 14, 1933;—CL 1948, 554.214.

ASSIGNMENT OF RENTS TO ACCRUE AS ADDITIONAL MORTGAGE SECURITY
Act 210 of 1953

AN ACT to authorize the assignment of rents to accrue from existing leases as additional security to mortgage obligations.

History: 1953, Act 210, Eff. Oct. 2, 1953.

The People of the State of Michigan enact:

554.231 Assignment of rents to accrue from leases as additional mortgage security.

Sec. 1. Hereafter, in or in connection with any mortgage on commercial or industrial property other than an apartment building with less than 6 apartments or any family residence to secure notes, bonds or other fixed obligations, it shall be lawful to assign the rents, or any portion thereof, under any oral or written leases upon the mortgaged property to the mortgagee, as security in addition to the property described in such mortgage. Such assignment of rents shall be binding upon such assignor only in the event of default in the terms and conditions of said mortgage, and shall operate against and be binding upon the occupiers of the premises from the date of filing by the mortgagee in the office of the register of deeds for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of such notice upon the occupiers of the mortgaged premises.

History: 1953, Act 210, Eff. Oct. 2, 1953;—Am. 1966, Act 151, Imd. Eff. June 24, 1966.

554.232 Assignment of rents; validity.

Sec. 2. The assignment of rents, when so made, shall be a good and valid assignment of the rents to accrue under any lease or leases in existence or coming into existence during the period the mortgage is in effect, against the mortgagor or mortgagors or those claiming under or through them from the date of the recording of such mortgage, and shall be binding upon the tenant under the lease or leases upon service of a copy of the instrument under which the assignment is made, together with notice of default as required by section 1.

History: 1953, Act 210, Eff. Oct. 2, 1953;—Am. 1966, Act 151, Imd. Eff. June 24, 1966.

554.233 Modification of mortgage.

Sec. 3. While the mortgage remains in force no modification of the rental covenants in such lease shall be binding upon the holder of such mortgage without his written consent thereto.

History: 1953, Act 210, Eff. Oct. 2, 1953.

LATERAL AND SUBJACENT SUPPORT TO ADJOINING LAND
Act 314 of 1921

AN ACT to prescribe the duties of an owner or occupant of lands, upon which excavations are made, in reference to the furnishing of lateral and subjacent support to adjoining lands and structures thereon; and to fix remedies for the violation thereof.

History: 1921, Act 314, Eff. Aug. 18, 1921.

The People of the State of Michigan enact:

554.251 Owner or occupant of excavated land; duty to support adjacent land and structures.

Sec. 1. It shall be the duty of every person, partnership or corporation who excavate upon land owned or occupied by them to a depth exceeding 12 feet below the established grade of a street or highway upon which such land abuts or, if there be no such established grade, below the surface of the adjoining land, to furnish sufficient lateral and subjacent support to the adjoining land to protect said land and all structures thereon from injury due to the removed material in its natural state, or due to the disturbance of other existing conditions caused by such excavation.

History: 1921, Act 314, Eff. Aug. 18, 1921;—CL 1929, 13500;—CL 1948, 554.251.

554.252 Failure to support adjacent land; liability.

Sec. 2. Such owner or occupant shall be liable to the proper person entitled to sue therefor, for the actual damage to land and structures and any other resulting damages, arising from failure to fulfill the duty created by this act. They shall also be liable to occupants or tenants of such land or structures for damage to their property or business proximately resulting from injury to such land or structures caused by their failure to fulfill said duty.

History: 1921, Act 314, Eff. Aug. 18, 1921;—CL 1929, 13501;—CL 1948, 554.252.

554.253 Failure to support adjacent land; equitable relief.

Sec. 3. The owners or occupants of adjoining lands or structures shall also be entitled to relief in a court of equity by way of injunction or other appropriate equitable relief, to restrain the prosecution of such excavating operations without the taking of such precautions to provide such lateral and subjacent support as are reasonable under the circumstances, and it shall not be necessary in such proceedings to allege or show that there is no adequate remedy at law. Such court of equity shall have jurisdiction in such proceedings to adjudicate all disputes arising in connection with the subject matter thereof.

History: 1921, Act 314, Eff. Aug. 18, 1921;—CL 1929, 13502;—CL 1948, 554.253.

554.254 Common law duties and remedies.

Sec. 4. The remedies herein provided and the duty herein created are in addition to the duty and remedies existing at common law.

History: 1921, Act 314, Eff. Aug. 18, 1921;—CL 1929, 13503;—CL 1948, 554.254.

OIL, GAS, OR MINERAL LEASES
Act 81 of 1929

AN ACT relating to the record, forfeiture and surrender of oil, gas and other mineral leases, providing a procedure therefor, and providing a penalty.

History: 1929, Act 81, Eff. Aug. 28, 1929.

The People of the State of Michigan enact:

554.281 Oil, gas or mineral lease; forfeiture; procedure for surrender, effect on record.

Sec. 1. When any oil, gas or other mineral lease heretofore or hereafter given on land situated in any county of Michigan and recorded therein shall become forfeited, it shall be the duty of the lessee, his successors or assigns, within 60 days from the date of the taking effect of this act, if the forfeiture occurred prior thereto, and within 30 days after the date of the forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, his successors or assigns, witnessed and acknowledged and placed on record in the county where the leased land is situated, without cost to the owner thereof: Provided, That if the said lessee, his successors or assigns shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said land may at any time after forfeiture serve upon said lessee, his successors or assigns, in person, or by registered letter, at his last known address, or by publication for 3 consecutive weeks in a newspaper of general circulation in the county where the land is situated, a notice in writing in substantially the following form:

“To: I, the undersigned, owner of the following described land situated in county, Michigan, to-wit: (description of land) upon which a lease dated the day of, 19...., was given to, lessee, do hereby notify you that the terms of said lease have been broken by the owner thereof, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law, that said lease has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same on record in the office of the register of deeds in said county within 30 days from this date.

Dated this day of, 19....

.....”

And the owner of said land may after 30 days from the date of service, registration or first publication of said notice, file with the register of deeds of the county where said land is situated, an affidavit setting forth that the affiant is the owner of said land; that the lessee, or his successors or assigns, has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure; that the same has been forfeited and is void; and setting out in said affidavit a copy of the notice served as above provided and the manner and time of the service thereof.

If the lessee, his successors or assigns, shall within 30 days after the filing of such affidavit, give notice in writing to the register of deeds of the county where said lands are located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is still in full force and effect, then the said affidavit shall not be recorded, but the register of deeds shall notify the owner of the lands of the action of the lessee, his successors or assigns, and the owner of the land shall be entitled to the remedies now provided by law, for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds as above provided, then the register of deeds shall record said affidavit and thereupon the said lease shall be null and void and of no legal effect, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns against the lessor, his successors or assigns.

History: 1929, Act 81, Eff. Aug. 28, 1929;—CL 1929, 13506;—CL 1948, 554.281.

554.282 Oil, gas or mineral lease; suit for release; damages.

Sec. 2. Should the owner of such lease neglect or refuse to execute a release as provided by this act, then the owner of the leased premises may after giving notice as provided in section 1 of this act, in lieu of the method prescribed in the preceding section, sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his successors or assigns, the sum of \$100.00 as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant.

History: 1929, Act 81, Eff. Aug. 28, 1929;—CL 1929, 13507;—Am. 1945, Act 214, Eff. Sept. 6, 1945;—CL 1948, 554.282.

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Michigan Compiled Laws Complete Through PA 242 of 2009

TERMINATION OF OIL OR GAS INTERESTS IN LAND
Act 42 of 1963

AN ACT to provide for the termination of dormant oil and gas interests in land owned by persons other than the owners of the surface and for the vesting of title to same in the surface owners in the absence of the filing of a notice of claim of interest within a specified period of time.

History: 1963, Act 42, Eff. Sept. 6, 1963.

The People of the State of Michigan enact:

554.291 Oil or gas interest in land; abandonment; claim of interest; vesting in surface owner; preservation from disclosure.

Sec. 1. (1) Any interest in oil or gas in any land owned by any person other than the owner of the surface, which has not been sold, leased, mortgaged, or transferred by instrument recorded in the register of deeds office for the county where that interest in oil or gas is located for a period of 20 years shall, in the absence of the issuance of a permit to drill an oil or gas well issued by the department of environmental quality, or its predecessor or successor, as to that interest in oil or gas or the actual production or withdrawal of oil or gas from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in underground gas storage operations, during such period of 20 years, be deemed abandoned, unless the owner thereof shall, within 3 years after September 6, 1963 or within 20 years after the last sale, lease, mortgage, or transfer of record of that interest in oil or gas or within 20 years after the last issuance of a drilling permit as to that interest in oil or gas or actual production or withdrawal of oil or gas, from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in oil or gas in underground gas storage operations, whichever is later, record a claim of interest as provided in section 2.

(2) Any interest in oil or gas deemed abandoned as provided in subsection (1) shall vest as of the date of such abandonment in the owner or owners of the surface in keeping with the character of the surface ownership.

(3) Notwithstanding any other provision of this act to the contrary, if a judgment of foreclosure is entered under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, for the nonpayment of delinquent taxes levied on property, an oil or gas interest in the property owned by a person other than the owner of the surface shall not be preserved from foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, unless that interest is sold, leased, mortgaged, transferred, reserved, or subject to a claim of interest under section 2 and an instrument evidencing the sale, lease, mortgage, transfer, reservation, or claim of interest is recorded in the office of the register of deeds in the county in which the property is located during the 20-year period immediately preceding the date of filing a petition for foreclosure under section 78h of the general property tax act, 1893 PA 206, MCL 211.78h.

History: 1963, Act 42, Eff. Sept. 6, 1963;—Am. 2006, Act 519, Imd. Eff. Dec. 29, 2006.

Constitutionality: This act is not unconstitutional as applied in these cases. Van Slooten v Larsen, 410 Mich 21; 299 NW2d 704 (1980).

554.292 Preservation of oil or gas interest; recording of interest notice claimed; applicability of act.

Sec. 2. (1) Any interest in oil or gas referred to in this act may be preserved by recording within the period specified in this act a written notice in the register of deeds office for the county in which the land is located. The notice shall be verified by oath and shall describe the land and the nature of the interest claimed, give the name and address of the person or persons claiming the interest, and state that the person or persons desire to preserve the interest and do not intend to abandon the interest.

(2) A person other than the owner of the surface holding interests in oil or gas in any land for use in underground gas storage operations may preserve the oil or gas interests, and the rights of any lessor of the oil or gas interests, by recording a single written notice defining the boundaries of and the formations included in the underground gas storage field or pool within which the oil or gas interests are located, without the necessity of describing each separate oil or gas interest claimed in that underground gas storage field or pool by that person.

(3) Recording a written notice under this section shall operate to preserve the oil or gas interest included in the written notice from abandonment under this act for a period of 20 years after recording. At the conclusion of that 20-year period, that interest in oil or gas shall be deemed abandoned if, during that 20-year period, the

nondormant character of the oil or gas interest has not been evidenced by sale, lease, mortgage, or transfer by instrument recorded in the register of deeds office for the county in which that oil or gas interest is located, a drilling permit issued, oil or gas actually produced or withdrawn from said lands, or from lands covered by a lease to which that interest in oil or gas is subject, or from lands pooled, unitized, or included in unit operations therewith, or the use of that interest in oil or gas in underground gas storage operations, or a like notice filed.

(4) In the absence of prior abandonment, an interest in oil or gas in any land owned by any person other than the owner of the surface may be preserved indefinitely from abandonment under this act by filing written notices as provided in this act or the performance of any of the acts specified in this act evidencing nondormancy of the interest in oil or gas within each succeeding 20-year period.

(5) This act shall not apply to any interest in oil or gas owned by any governmental body or agency.

History: 1963, Act 42, Eff. Sept. 6, 1963;—Am. 2006, Act 519, Imd. Eff. Dec. 29, 2006.

554.293 Underground gas storage operation; good faith affidavit, filing.

Sec. 3. For the purposes of this act, any person using such interests in underground gas storage operations may file a good faith affidavit in the register of deeds office for the county or counties where such interests are located, defining the boundaries of the underground gas storage field, or pool, and the formations included therein. Such affidavit shall be prima facie evidence of the use of such interests in underground gas storage operations.

History: 1963, Act 42, Eff. Sept. 6, 1963.

554.294 "Person" defined.

Sec. 4. As used in this act, "person" means an individual, partnership, corporation, association, or other legal entity.

History: 1963, Act 42, Eff. Sept. 6, 1963;—Am. 2006, Act 519, Imd. Eff. Dec. 29, 2006.

NOTICE OF FORFEITURE OF LAND CONTRACT
Act 235 of 1929

AN ACT to provide for serving notice of forfeiture of land contracts upon vendees or others entitled to such notice when such persons are absent from the state or concealed therein, or when their whereabouts is unknown.

History: 1929, Act 235, Imd. Eff. May 21, 1929.

The People of the State of Michigan enact:

554.301 Notice of land contract forfeiture; publication.

Sec. 1. Whenever the vendee in a land contract, or other persons entitled by law to receive notice of the forfeiture of the same, shall be absent from the state of Michigan, or concealed therein, or when the whereabouts of such person cannot be determined after diligent search and inquiry, it shall be lawful for the person giving such notice of forfeiture, to publish the same 3 successive times at weekly intervals in some newspaper printed and circulating in the county where such property is situated, if there be one printed and circulating in said county; and in case there be no newspaper printed and circulating in said county, then in some newspaper published in an adjoining county and circulating in the county where such property is situated.

History: 1929, Act 235, Imd. Eff. May 21, 1929;—CL 1929, 13508;—CL 1948, 554.301.

554.302 Notice of land contract forfeiture; proof.

Sec. 2. Upon a trial before a circuit court commissioner, or before any other court in this state, when it may become necessary to prove the giving of such notice of forfeiture, the same may be shown by the introduction of due proof of such publication and further proof to the satisfaction of said court, that the circumstances justifying such publication existed at the time thereof.

History: 1929, Act 235, Imd. Eff. May 21, 1929;—CL 1929, 13509;—CL 1948, 554.302.

EFFECT OF BIGAMOUS RELATIONS ON RIGHT TO INHERIT
Act 327 of 1905

554.321, 554.322 Repealed. 1978, Act 642, Eff. July 1, 1979;—1979, Act 51, Imd. Eff. July 7, 1979.

GIFTS, GRANTS, BEQUESTS, AND DEVICES

Act 280 of 1915

AN ACT to establish the validity and to provide for the administration and control of gifts, grants, bequests and devises to religious, educational, charitable or benevolent uses, or for cemeteries, whether in trust or otherwise, which would be otherwise invalid by reason of indefiniteness or uncertainty of the object of such trust or of the persons designated as the beneficiaries thereunder in the instrument creating the same or by reason of contravening any statute or rule against perpetuities; and regulating the same; to establish the validity of all gifts, grants, devises or bequests made in pursuance of Act 122 of the Public Acts of 1907 and of the acts amendatory thereof, and all proceedings and acts performed in accordance therewith; and repealing Act 122 of the Public Acts of 1907, and all amendments thereto.

History: 1915, Act 280, Eff. Aug. 24, 1915.

The People of the State of Michigan enact:

554.351 Gift or grant for certain purposes; effect of indefiniteness, vesting of title, trustee appointment.

Sec. 1. No gift, grant, bequest or devise, whether in trust or otherwise to religious, educational, charitable or benevolent uses, or for the purpose of providing for the care or maintenance of any part of any cemetery, public or private, or anything therein contained which shall in other respects be valid under the laws of this state, shall be invalid by reason of the indefiniteness or uncertainty of the object of such trust or of the persons designated as the beneficiaries thereunder in the instrument creating the same, nor by reason of the same contravening any statute or rule against perpetuities. If in the instrument creating such a gift, grant, bequest or devise, there is a trustee named to execute the same, the legal title to the lands or property given, granted, devised or bequeathed for such purposes, shall vest in such trustee. If no such trustee shall be named in said instrument or if a vacancy occurs in the trusteeship, then the trust shall vest in the court of chancery for the proper county, and shall be executed by some trustee appointed for that purpose by or under the direction of the court; and said court may make such orders or decrees as may be necessary to vest the title to said lands or property in the trustee so appointed.

History: 1915, Act 280, Eff. Aug. 24, 1915;—CL 1915, 11099;—CL 1929, 13512;—CL 1948, 554.351.

Former law: See Act 122 of 1907.

554.352 Gift or grant for certain purposes; jurisdiction of court; trust construction; prosecutor duties.

Sec. 2. The circuit court for the proper county shall have jurisdiction and control over the gifts, grants, bequests and devises in all cases provided for by section 1. Every such trust shall be liberally construed by the court so that the intentions of the creator thereof shall be carried out whenever possible. The attorney general shall represent the people of the state and the beneficiaries in all cases where they are uncertain or indefinite, and shall enforce such trusts by proper proceedings in the court, but the attorney general shall not be required to perform any duties in connection with such trusts in any court outside of this state.

History: 1915, Act 280, Eff. Aug. 24, 1915;—CL 1915, 11100;—CL 1929, 13513;—CL 1948, 554.352;—Am. 1965, Act 12, Imd. Eff. Apr. 13, 1965.

554.353 Validation clause.

Sec. 3. All gifts, grants, devises or bequests made in pursuance to the provisions of Act No. 122 of the Public Acts of 1907 and of the acts amendatory thereof, and all proceedings and acts performed in accordance therewith are hereby validated.

History: 1915, Act 280, Eff. Aug. 24, 1915;—CL 1915, 11101;—CL 1929, 13514;—CL 1948, 554.353.

Compiler's note: Act 122 of 1907, referred to in this section, was repealed by Act 280 of 1915.

GIFTS, GRANTS, BEQUESTS, AND DEVISES
Act 373 of 1925

AN ACT to relieve gifts, grants, devises and bequests, in trust or otherwise, for public welfare purposes, from the operation of all statutory and all common law rules of this state against perpetuities and restraint of alienation, to define said purposes, and to provide a rule of construction.

History: 1925, Act 373, Eff. Aug. 27, 1925.

The People of the State of Michigan enact:

554.381 Public welfare purposes; validity of gifts and bequests.

Sec. 1. No statutory or common law rule of this state against perpetuities or restraint of alienation shall hereafter invalidate any gift, grant, devise or bequest, in trust or otherwise, for public welfare purposes.

History: 1925, Act 373, Eff. Aug. 27, 1925;—CL 1929, 13516;—CL 1948, 554.381.

554.382 Public welfare purposes; definition.

Sec. 2. Public welfare purposes are defined to be all lawful purposes beneficial to the public as a whole.

History: 1925, Act 373, Eff. Aug. 27, 1925;—CL 1929, 13517;—CL 1948, 554.382.

SALE OF CERTAIN LANDS Act 258 of 1925

AN ACT to provide for the sale of any lands heretofore or hereafter conveyed for any religious, educational, charitable, benevolent or public use or purpose, and the reinvestment of the proceeds of such sale in other lands subject to the same conditions as to the use or purpose set forth in the original conveyance, whenever, because of changed conditions or circumstances, it is impossible or impractical to hold or use said lands for the use or purpose set forth in such conveyance.

History: 1925, Act 258, Eff. Aug. 27, 1925.

The People of the State of Michigan enact:

554.401 Lands sale held for public purposes and new lands purchase; bill of complaint.

Sec. 1. Whenever any lands shall heretofore or hereafter be conveyed by any grant or devise to be held or used for any religious, educational, charitable, benevolent or public purpose, with a condition annexed in the instrument of conveyance that in event said lands shall at any time cease to be held or used for the purpose set forth in such conveyance, title thereto shall revert to the grantor or devisor and his heirs, and it shall appear in the judgment of the officers, trustees or governing body of the grantee named in such conveyance that because of changed conditions or circumstances since the execution of such conveyance it is impossible or impractical to longer hold or use said lands for the purpose mentioned in such conveyance and that the religious, educational, charitable, benevolent or public object of the grantor or devisor, as set forth in such conveyance, may be prevented or defeated thereby, the said grantee may file a bill of complaint in the circuit court in chancery of the county in which said lands are situated, setting forth a correct description of such lands and the terms and conditions under which the same shall be held or used, together with a comprehensive statement of the changed conditions and circumstances which render it impossible or impractical to longer hold or use the same for the purpose mentioned in such conveyance.

History: 1925, Act 258, Eff. Aug. 27, 1925;—CL 1929, 13518;—CL 1948, 554.401.

554.402 Lands sale held for public purposes and new lands purchase; parties defendant, time.

Sec. 2. In any proceeding mentioned in section 1 the heirs of the grantor or devisor if known shall be named as defendants and the same proceedings had thereon as is provided by existing law in actions against known defendants. If the names or addresses of the heirs of any such grantor or devisor are unknown, then proceedings shall be had in such action as may be provided by existing law in proceedings against unknown defendants: Provided, however, That no such action shall be brought within a period of 10 years from the execution of any such conveyance nor within the lifetime of the grantor or devisor thereof.

History: 1925, Act 258, Eff. Aug. 27, 1925;—CL 1929, 13519;—CL 1948, 554.402.

554.403 Lands sale held for public purposes and purchase of new lands; decree.

Sec. 3. If upon the hearing it shall appear to the satisfaction of the court that the allegations in the bill of complaint are true and that because of changed conditions or circumstances since the execution of such conveyance it is impossible or impractical to longer hold or use said lands for the purposes limited in such conveyance and that the religious, educational, charitable, benevolent or public object of the grantor, as set forth in such conveyance, may be defeated thereby, a decree may be entered authorizing the grantor to sell such lands for the highest price obtainable therefor, in the same manner as may be provided by law for the sale of lands of infants and incompetent persons, and directing that the proceeds of the sale of such lands shall be reinvested in other lands suitable for the use or purpose set forth in the original conveyance, which lands shall thereupon be held by the grantee named in the original conveyance subject to the same limitations as set forth therein.

History: 1925, Act 258, Eff. Aug. 27, 1925;—CL 1929, 13520;—CL 1948, 554.403.

554.404 Lands sale held for public purposes and purchase of new lands; effect of sale on title.

Sec. 4. No sale of lands under the decree of the court as herein provided shall defeat the estate of the grantee named in the original conveyance because of the failure to longer hold or use the same for the purpose named in such conveyance and shall be sufficient to convey to the purchaser of such lands a good and sufficient title in fee simple, free from all conditions or limitations whatsoever, under which the same shall theretofore have been held or used.

History: 1925, Act 258, Eff. Aug. 27, 1925;—CL 1929, 13521;—CL 1948, 554.404.

IRREVOCABLE GIFTS OF SECURITIES TO MINORS
Act 43 of 1956

554.431-554.443 Repealed. 1959, Act 172, Eff. Mar. 19, 1960.

MICHIGAN UNIFORM GIFTS TO MINORS ACT
Act 172 of 1959

554.451-554.461 Repealed. 1998, Act 433, Imd. Eff. Dec. 30, 1998.

DISCLAIMER OF SUCCESSION TO PROPERTY
Act 9 of 1971

554.501-554.520 Repealed. 1996, Act 131, Eff. June 1, 1996.

MICHIGAN UNIFORM TRANSFERS TO MINORS ACT
Act 433 of 1998

AN ACT to regulate certain transfers of property to minors; to make uniform the law regulating certain transfers to property to minors; and to repeal acts and parts of acts.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

The People of the State of Michigan enact:

554.521 Short title.

Sec. 1. This act shall be known and may be cited as the “Michigan uniform transfers to minors act”.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.522 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 5 have the meanings ascribed to them in those sections.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.523 Definitions; A to C.

Sec. 3. (1) “Adult” means an individual who is 18 years of age or older.

(2) “Benefit plan” means an employer's plan for the benefit of an employee or partner.

(3) “Broker” means a person lawfully engaged in the business of effecting transactions in securities or commodity contracts for the person's own account or for the account of others.

(4) “Conservator” means a person appointed or qualified by a court to act as a conservator, special conservator, guardian, limited guardian, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

(5) “Court” means the probate court for the county in which a minor resides.

(6) “Custodial property” means an interest in property transferred to a custodian under this act and the income from, and proceeds of, that interest in property.

(7) “Custodian” means a person so designated pursuant to section 13 or a successor or substitute custodian designated under section 7, 23, or 24.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.524 Definitions; F to P.

Sec. 4. (1) “Financial institution” means a bank, trust company, savings and loan association, or credit union chartered and supervised under state or federal law.

(2) “Legal representative” means an individual's personal representative or conservator.

(3) “Member of the minor's family” means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(4) “Minor” means an individual who is less than 18 years of age.

(5) “Person” means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(6) “Personal representative” means a personal representative, independent personal representative, or special fiduciary of a decedent's estate or a person legally authorized to perform substantially the same functions.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.525 Definitions; S to T.

Sec. 5. (1) “State” includes a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(2) “Transfer” means a transaction that creates custodial property under section 13.

(3) “Transferor” means a person who makes a transfer under this act.

(4) “Trust company” means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.526 Change in residence of transferor, minor, or custodian, or removal of custodial property from state; jurisdiction; governing laws.

Sec. 6. (1) This act applies to a transfer that refers to this act in the designation by which the transfer is

made as provided in section 13 if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this act despite a subsequent change in residence of the transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this act is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and that is valid under the uniform transfers to minors act, the uniform gifts to minors act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this state if, at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.527 Custodian to receive property upon occurrence of future event; nomination; creation of custodial property.

Sec. 7. (1) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the future event by naming the custodian followed in substance by the words: “as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act”. The nomination may name 1 or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve. The nomination may be made in a will, trust, deed, instrument exercising a power of appointment, or writing designating a beneficiary of contractual rights that is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section shall be a person to whom a transfer of property of that kind may be made under section 13.

(3) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under section 13. Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property pursuant to section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.528 Transfer by irrevocable gift or power of appointment in custodian.

Sec. 8. A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.529 Irrevocable transfer by personal representative or trustee; designation of custodian.

Sec. 9. (1) A personal representative or trustee may make an irrevocable transfer pursuant to section 13 to a custodian for the benefit of a minor as authorized in the governing will or trust. If the testator or grantor has nominated a custodian under section 7 to receive the custodial property, the transfer shall be made to the custodian.

(2) If the testator or grantor has not nominated a custodian under section 7, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee shall designate the custodian from among those eligible to serve as custodian for property of that kind under section 13.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.530 Absence of will or authorization to make irrevocable transfer; transfer by personal representative, trustee, or conservator; conditions.

Sec. 10. (1) Subject to subsection (3), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor pursuant to section 13 in the absence of a will or under a will or trust that does not contain an authorization to make the irrevocable transfer.

(2) Subject to subsection (3), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to section 13.

(3) A transfer under subsection (1) or (2) may be made only if the personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor; the transfer is not prohibited by or

inconsistent with provisions of the applicable will, trust agreement, or other governing instrument; and, if the transfer exceeds \$10,000.00 in value, the transfer is authorized by the court.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.531 Minor not having conservator; transfer by person holding property or owing liquidated debt.

Sec. 11. (1) Subject to subsections (2) and (3), a person not subject to section 9 or 10 who holds property of, or owes a liquidated debt to, a minor not having a conservator may make an irrevocable transfer to a custodian for the benefit of the minor pursuant to section 13.

(2) If a person having the right to do so under section 7 has nominated a custodian under that section to receive the custodial property, the transfer shall be made to that person.

(3) If no custodian has been nominated under section 7, or all persons so nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company. If the value of the property exceeds \$10,000.00, a transfer under this subsection shall only be made if authorized by the court.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.532 Custodial property; receipt and discharge.

Sec. 12. A written acknowledgment of delivery by a custodian constitutes a sufficient receipt and discharge for custodial property transferred to the custodian pursuant to this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.533 Creation and transfer of custodial property; actions.

Sec. 13. (1) Custodial property is created and a transfer is made whenever an action described in subsections (2) to (8) is taken.

(2) A certificated or uncertificated security in registered form is either of the following:

(a) Registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form set forth in section 14.

(3) Money is paid or delivered to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(4) The ownership of a life or endowment insurance policy or annuity contract is either of the following:

(a) Registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(5) An irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(6) An interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(7) A certificate of title issued by a department or agency of a state or of the United States that evidences title to tangible personal property is either of the following:

(a) Issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(b) Delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(8) An interest in any property not described in subsections (2) to (7) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in section 14.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.534 Instrument; form.

Sec. 14. An instrument in substantially the following form satisfies the requirements of section 13(2)(b) and 13(8):

“TRANSFER UNDER THE MICHIGAN UNIFORM TRANSFERS TO MINORS ACT

I, _____ (name of transferor or name and representative capacity, if a fiduciary) transfer to _____ (name of custodian), as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act, the following:

(insert a description of the custodial property sufficient to identify it).

Dated: _____

(Signature)

_____ (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Michigan uniform transfers to minors act.

Dated: _____

(Signature of Custodian)

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.535 Time of control; holding constituting single custodianship.

Sec. 15. (1) A transferor shall place the custodian in control of the custodial property as soon as practicable.

(2) A transfer shall be made only for 1 minor, and only 1 person shall be the custodian. Custodial property held under this act by the same custodian for the benefit of the same minor constitutes a single custodianship.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.536 Conditions not affecting validity of transfer; transfer as irrevocable; property indefeasibly vested in minor; powers, rights, and immunities.

Sec. 16. (1) The validity of a transfer made in a manner prescribed in this act is not affected by any of the following:

(a) Failure of the transferor to comply with section 15 concerning control.

(b) Designation of an ineligible custodian, except the transfer is invalidated by designation of a transferor for property for which the transferor is ineligible to serve as custodian under section 13.

(c) Death or incapacity of a person nominated under section 7 or designated under section 13 as custodian or the declination of the office by that person.

(2) A transfer made pursuant to section 13 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has the rights, powers, duties, and authority provided in this act, and neither the minor nor the minor's legal representative has any right, power, duty, or authority with respect to the custodial property except as provided in this act.

(3) By making a transfer, the transferor incorporates in the disposition the provisions of this act and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.537 Duties of custodian.

Sec. 17. (1) A custodian shall do all of the following:

(a) Take control of custodial property.

(b) Register or record title to custodial property if appropriate.

(c) Collect, hold, manage, invest, and reinvest custodial property.

(2) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another. If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use that skill or expertise. However, in the custodian's discretion and without liability to the minor or the minor's estate, a custodian may retain any custodial property received from a transferor.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on the life of the

minor only if the minor or the minor's estate is the sole beneficiary, or the life of another person in whom the minor has an insurable interest only to the extent that the minor, the minor's estate, or the custodian in the capacity of custodian is the irrevocable beneficiary.

(4) A custodian at all times shall keep custodial property separate and distinct from other property in a manner sufficient to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed. Custodial property subject to recordation is so identified if it is recorded. Custodial property subject to registration is so identified if it is either registered or held in an account designated in the name of the custodian, followed in substance by the words: "as custodian for _____ (name of minor) under the Michigan uniform transfers to minors act".

(5) A custodian shall keep a record of each transaction with respect to custodial property, including information necessary for the preparation of the minor's tax return, and shall make the records available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor is at least 14 years of age.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.538 Rights, powers, and authority over custodial property; limitation.

Sec. 18. A custodian, acting in a custodial capacity, has the rights, powers, and authority over custodial property that an unmarried adult owner has over his or her own property, but a custodian may exercise those rights, powers, and authority in that capacity only. This section does not relieve a custodian from liability for breach of section 17.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.539 Delivery, payment, or expenditure by custodian.

Sec. 19. (1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor without court order, without regard to the duty or ability of the custodian personally or of any other person to support the minor, and without regard to other income or property of the minor that may be applicable or available for that purpose.

(2) On petition of an interested person or the minor if the minor is at least 14 years of age, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, is not in substitution for, and does not affect an obligation of a person to support the minor.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.540 Custodian; expenses; compensation; bond.

Sec. 20. (1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties. Except for a person who is a transferor under section 8, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(2) Except as provided in section 24, a custodian need not give a bond.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.541 Responsibility of third person.

Sec. 21. A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining any of the following:

(a) The validity of the purported custodian's designation.

(b) The propriety of, or the authority under this act for, an act of the purported custodian.

(c) The validity or propriety under this act of an instrument executed or given either by the person purporting to make a transfer or by the purported custodian.

(d) The propriety of the application of property of the minor delivered to the purported custodian.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.542 Liability of custodian or minor.

Sec. 22. (1) A claim based on a contract entered into by a custodian acting in a custodial capacity, an obligation arising from the ownership or control of custodial property, or a tort committed during the custodianship may be asserted against the custodial property by proceeding against the custodian in the

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custodial capacity, whether or not the custodian or the minor is personally liable for the contract, obligation, or tort.

(2) A custodian is not personally liable in any of the following situations:

(a) On a contract properly entered into in the custodial capacity unless the custodian fails to reveal that capacity and fails to identify the custodianship in the contract.

(b) For an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.543 Service as custodian; declination; substitute; successor.

Sec. 23. (1) A person nominated under section 7 or designated pursuant to section 13 as custodian may decline to serve by delivering a written declination to the person who made the nomination or to the transferor or the transferor's legal representative. The declination shall describe the custodianship being declined and shall be signed by the person declining.

(2) If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under section 7, the person who made the nomination may nominate a substitute custodian under section 7. If a substitute custodian is not nominated, the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer. A substitute custodian shall be nominated or designated from among the persons eligible to serve as custodian for that kind of property under section 13. The custodian so designated has the rights of a successor custodian.

(3) A custodian at any time may designate a trust company or an adult other than a transferor under section 8 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain, or is not accompanied by, the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.544 Resignation, ineligibility, death, or incapacitation of custodian; possession and control of property and records; petition for removal of custodian.

Sec. 24. (1) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(2) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor is not less than 14 years of age, the minor may designate as successor custodian, in the manner prescribed in section 23(3), an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor is less than 14 years of age or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or another interested person may petition the court to designate a successor custodian.

(3) A custodian who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian may bring an action to enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(4) A transferor, the legal representative of a transferor, an adult member of the minor's family, the conservator of the minor, or the minor if the minor is not less than 14 years of age may petition the court to remove the custodian for cause and designate a successor custodian other than a transferor under section 8, or to require the custodian to give appropriate bond.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.545 Accounting.

Sec. 25. (1) A minor who is not less than 14 years of age, the minor's legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court for either of the following:

(a) An accounting by the custodian or the custodian's legal representative.

(b) A determination of responsibility, as between the custodial property and the custodian personally, for

claims against the custodial property, unless the responsibility has been adjudicated in an action under section 22 to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) In a proceeding under this act or in any other proceeding, the court may require or permit a custodian or the custodian's legal representative to account.

(4) If a custodian is removed under section 24, the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.546 Transfer of property to minor; time.

Sec. 26. Except as provided in section 27, the custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of the following:

(a) The minor becoming 18 years of age with respect to custodial property transferred under section 8, 9, 10, or 11.

(b) The minor's death.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.547 Transfer of property to minor; delay.

Sec. 27. (1) Transfer of custodial property to the minor that is transferred to the custodian under section 8 or 9 may be delayed as provided in this section until a specified time after the minor is 18 years of age. The time of transfer to the minor shall be specified in the transfer executed under section 13 by using the words "as custodian for (name of minor) until age _____ under the Michigan uniform transfers to minors act".

(2) Transfer to the minor of custodial property transferred to the custodian under section 8 shall not be delayed later than the minor's twenty-first birthday. Transfer to the minor of custodial property transferred to the custodian under section 9 shall not be delayed unless the governing will or trust provides in substance that the custodianship continues until the minor is a specified age, not later than the minor's twenty-first birthday and that the will or trust determines the time to be specified in the transfer.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.548 Applicability of act to transfer described in MCL 554.526.

Sec. 28. This act applies to a transfer described in section 6 made after the effective date of this act if either of the following is true:

(a) The transfer purports to have been made under former 1959 PA 172.

(b) The instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the uniform gifts to minors act" or "as custodian under the uniform transfers to minors act" of any other state, and the application of this act is necessary to validate the transfer.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.549 Applicability of act to transfer made before effective date.

Sec. 29. (1) Transfer of custodial property made before the effective date of this act is validated notwithstanding that there was no specific authority in former 1959 PA 172 for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) This act applies to a transfer made before the effective date of this act in a manner and form prescribed in former 1959 PA 172, except insofar as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on the effective date of this act.

(3) With respect to the age of a minor for whom custodial property is held under this act, sections 3, 4, and 26 do not apply to custodial property held in a custodianship that terminated because the minor becomes 18 years of age after December 31, 1971, and before the effective date of this act.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.550 Construction of act.

Sec. 30. This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.551 Repeal of former 1959 PA 172; effect.

Sec. 31. To the extent that this act by virtue of section 29(2) does not apply to a transfer made in a manner prescribed in former 1959 PA 172, or to the powers, duties, and immunities conferred by a transfer in that

manner upon a custodian or a person dealing with a custodian, the repeal of former 1959 PA 172 does not affect that transfer or those powers, duties, and immunities.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

554.552 Repeal of MCL 554.451 to 554.461.

Sec. 32. The Michigan uniform gifts to minors act, 1959 PA 172, MCL 554.451 to 554.461, is repealed.

History: 1998, Act 433, Imd. Eff. Dec. 30, 1998.

LANDLORD AND TENANT RELATIONSHIPS

Act 348 of 1972

AN ACT to regulate relationships between landlords and tenants relative to rental agreements for rental units; to regulate the payment, repayment, use and investment of security deposits; to provide for commencement and termination inventories of rental units; to provide for termination arrangements relative to rental units; to provide for legal remedies; and to provide penalties.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

The People of the State of Michigan enact:

554.601 Definitions.

Sec. 1. As used in this act:

(a) "Rental unit" means a structure or part of a structure used as a home, residence, or sleeping unit by a single person or household unit, or any grounds, or other facilities or area promised for the use of a residential tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and 2-family dwellings.

(b) "Rental agreement" means an agreement that establishes or modifies the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a rental unit.

(c) "Landlord" means the owner, lessor, or sublessor of the rental unit or the property of which it is a part and, in addition, means a person authorized to exercise any aspect of the management of the premises, including a person who, directly or indirectly, acts as a rental agent, receives rent, other than as a bona fide purchaser, and who has no obligation to deliver the receipts to another person.

(d) "Tenant" means a person who occupies a rental unit for residential purposes with the landlord's consent for an agreed upon consideration.

(e) "Security deposit" means a deposit, in any amount, paid by the tenant to the landlord or his or her agent to be held for the term of the rental agreement, or any part of the term, and includes any required prepayment of rent other than the first full rental period of the lease agreement; any sum required to be paid as rent in any rental period in excess of the average rent for the term; and any other amount of money or property returnable to the tenant on condition of return of the rental unit by the tenant in condition as required by the rental agreement. Security deposit does not include either of the following:

(i) An amount paid for an option to purchase, pursuant to a lease with option to purchase, unless it is shown the intent was to evade this act.

(ii) An amount paid as a subscription for or purchase of a membership in a cooperative housing association incorporated under the laws of this state. As used in this subparagraph, "cooperative housing association" means a consumer cooperative that provides dwelling units to its members.

(f) "Senior citizen housing" means housing for individuals 62 years of age or older that is subsidized in whole or in part under any local, state, or federal program.

History: 1972, Act 348, Eff. Apr. 1, 1973;—Am. 1984, Act 297, Imd. Eff. Dec. 21, 1984;—Am. 1995, Act 79, Imd. Eff. June 15, 1995.

Popular name: Landlord-Tenant Act

554.601a Termination of lease; conditions; applicability of section to leases entered into, renewed, or renegotiated after effective date.

Sec. 1a. (1) A rental agreement shall provide that a tenant who has occupied a rental unit for more than 13 months may terminate a lease by a 60-day written notice to the landlord if 1 of the following occurs:

(a) The tenant becomes eligible during the lease term to take possession of a subsidized rental unit in senior citizen housing and provides the landlord with written proof of that eligibility.

(b) The tenant becomes incapable during the lease term of living independently, as certified by a physician in a notarized statement.

(2) This section applies only to leases entered into, renewed, or renegotiated after the effective date of this section, in accordance with the constitutional prohibition against impairment of contracts provided by section 10 of article I of the state constitution of 1963.

History: Add. 1995, Act 79, Imd. Eff. June 15, 1995.

Popular name: Landlord-Tenant Act

554.602 Security deposit; amount.

Sec. 2. A landlord may require a security deposit for each rental unit. A security deposit shall be required and maintained in accordance with the terms of this act and shall not exceed 1 1/2 months' rent.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.603 Security deposit; notice.

Sec. 3. A landlord shall not require a security deposit unless he notifies the tenant no later than 14 days from the date a tenant assumes possession in a written instrument of the landlord's name and address for receipt of communications under this act, the name and address of the financial institution or surety required by section 4 and the tenant's obligation to provide in writing a forwarding mailing address to the landlord within 4 days after termination of occupancy. The notice shall include the following statement in 12 point boldface type which is at least 4 points larger than the body of the notice or lease agreement: "You must notify your landlord in writing within 4 days after you move of a forwarding address where you can be reached and where you will receive mail; otherwise your landlord shall be relieved of sending you an itemized list of damages and the penalties adherent to that failure." Failure to provide the information relieves the tenant of his obligation relative to notification of the landlord of his forwarding mailing address.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.604 Security deposit, disposition; bond.

Sec. 4. (1) The security deposit shall be deposited in a regulated financial institution. A landlord may use the moneys so deposited for any purposes he desires if he deposits with the secretary of state a cash bond or surety bond written by a surety company licensed to do business in this state and acceptable to the attorney general to secure the entire deposits up to \$50,000.00 and 25% of any amount exceeding \$50,000.00. The attorney general may find a bond unacceptable based only upon reasonable criteria relating to the sufficiency of the bond, and shall notify the landlord in writing of his reasons for the unacceptability of the bond.

(2) The bond shall be for the benefit of persons making security deposits with the landlord. A person for whose benefit the bond is written or his legal representative may bring an action in the district, common pleas or municipal court where the landlord resides or does business for collection on the bond.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.605 Security deposit as property of tenant.

Sec. 5. For the purposes of this act and any litigation arising thereunder, the security deposit is considered the lawful property of the tenant until the landlord establishes a right to the deposit or portions thereof as long as the bond provision is fulfilled, the landlord may use this fund for any purposes he desires.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.606 Waiving requirements of act.

Sec. 6. The requirements of this act may not be waived by the parties to a rental agreement except as specifically provided herein.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.607 Security deposit; permissible uses.

Sec. 7. A security deposit may be used only for the following purposes:

(a) Reimburse the landlord for actual damages to the rental unit or any ancillary facility that are the direct result of conduct not reasonably expected in the normal course of habitation of a dwelling.

(b) Pay the landlord for all rent in arrearage under the rental agreement, rent due for premature termination of the rental agreement by the tenant and for utility bills not paid by the tenant.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.608 Inventory checklists.

Sec. 8. (1) The landlord shall make use of inventory checklists both at the commencement and termination of occupancy for each rental unit which detail the condition of the rental unit for which a security deposit is required.

(2) At the commencement of the lease, the landlord shall furnish the tenant 2 blank copies of a commencement inventory checklist, which form shall be identical to the form used for the termination inventory checklist. The checklist shall include all items in the rental unit owned by the landlord including, but not limited to, carpeting, draperies, appliances, windows, furniture, walls, closets, shelves, paint, doors, plumbing fixtures and electrical fixtures.

(3) Unless the landlord and tenant agree to complete their inventory checklist within a shorter period, the tenant shall review the checklist, note the condition of the property and return 1 copy of the checklist to the landlord within 7 days after receiving possession of the premises.

(4) The checklist shall contain the following notice in 12 point boldface type at the top of the first page: "You should complete this checklist, noting the condition of the rental property, and return it to the landlord within 7 days after obtaining possession of the rental unit. You are also entitled to request and receive a copy of the last termination inventory checklist which shows what claims were chargeable to the last prior tenants."

(5) At the termination of the occupancy, the landlord shall complete a termination inventory checklist listing all the damages he claims were caused by the tenant.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.609 Itemized list of damages; check or money order; contents of notice of damages.

Sec. 9. In case of damage to the rental unit or other obligation against the security deposit, the landlord shall mail to the tenant, within 30 days after the termination of occupancy, an itemized list of damages claimed for which the security deposit may be used as provided in section 7, including the estimated cost of repair of each property damaged item and the amounts and bases on which he intends to assess the tenant. The list shall be accompanied by a check or money order for the difference between the damages claimed and the amount of the security deposit held by the landlord and shall not include any damages that were claimed on a previous termination inventory checklist prior to the tenant's occupancy of the rental unit. The notice of damages shall include the following statement in 12 point boldface type which shall be at least 4 points larger than the body of the notice: "You must respond to this notice by mail within 7 days after receipt of same, otherwise you will forfeit the amount claimed for damages."

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.610 Effect of noncompliance with notice of damages requirement.

Sec. 10. Failure by the landlord to comply with the notice of damages requirement within the 30 days after the termination of occupancy, constitutes agreement by the landlord that no damages are due and he shall remit to the tenant immediately the full security deposit.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.611 Notice of forwarding address; effect of noncompliance.

Sec. 11. The tenant shall notify the landlord in writing at the address given under section 4 within 4 days after termination of his occupancy of an address at which communications pursuant to this act may be received. Failure to comply with this requirement relieves the landlord of the requirement of notice of damages but does not prejudice a tenant's subsequent claim for the security deposit.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.612 Response to notice of damages.

Sec. 12. If a landlord claims damages to a rental unit and gives notice of damages as required, the tenant upon receipt of the list of damages shall respond by ordinary mail to the address provided by the landlord as required by section 3 within 7 days, indicating in detail his agreement or disagreement to the damage charges listed. For the purposes of this section the date of mailing shall be considered the date of the tenant's response.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.613 Action for damages; retention of security deposit; waiver.

Sec. 13. (1) Within 45 days after termination of the occupancy and not thereafter the landlord may commence an action in a court of competent jurisdiction for a money judgment for damages which he has

claimed or in lieu thereof return the balance of the security deposit held by him to the tenant or any amount mutually agreed upon in writing by the parties. A landlord shall not be entitled to retain any portion of a security deposit for damages claimed unless he has first obtained a money judgment for the disputed amount or filed with the court satisfactory proof of an inability to obtain service on the tenant or unless:

- (a) The tenant has failed to provide a forwarding address as required by section 11.
- (b) The tenant has failed to respond to the notice of damages as required by section 12.
- (c) The parties have agreed in writing to the disposition of the balance of the deposit claimed by the landlord.
- (d) The amount claimed is entirely based upon accrued and unpaid rent equal to the actual rent for any full rental period or portion thereof during which the tenant has had actual or constructive possession of the premises.

(2) This section does not prejudice a landlord's right to retain any security deposit funds as satisfaction or partial satisfaction of a money judgment obtained pursuant to summary proceedings filed pursuant to chapter 57 of Act No. 236 of the Public Acts of 1961, as amended, being sections 600.5701 to 600.5759 of the Compiled Laws of 1948 or other proceedings at law. Failure of the landlord to comply fully with this section constitutes waiver of all claimed damages and makes him liable to the tenant for double the amount of the security deposit retained.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.614 Termination of landlord's interest; liability for security deposit.

Sec. 14. Upon termination of a landlord's interest in a rental unit whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent is liable with respect to the security deposit, until the occurrence of any of the following:

- (a) Transfer of the deposit to the landlord's successor in interest and written notification to the tenant by ordinary mail of the transfer and of the successor's name and address.
- (b) Compliance with section 4 by the successor in interest.
- (c) Return of the security deposit to the tenant.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.615 Action to enforce act.

Sec. 15. The attorney general or any affected individual may bring an action to enforce this act in a court of competent jurisdiction in the county where the defendant resides or does business.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

554.616 Effective date and applicability of act.

Sec. 16. This act takes effect April 1, 1973 and applies only to security deposits held pursuant to leases entered into, renewed or renegotiated after April 1, 1973.

History: 1972, Act 348, Eff. Apr. 1, 1973.

Popular name: Landlord-Tenant Act

TRUTH IN RENTING ACT
Act 454 of 1978

AN ACT to regulate rental agreements for residential premises; to prohibit the inclusion by lessors of certain clauses or provisions in residential rental agreements; to require the disclosure by lessors of certain information; to require the inclusion of certain provisions in residential rental agreements; to regulate the commercial sale of printed rental agreement forms; and to prescribe penalties.

History: 1978, Act 454, Eff. July 1, 1979.

The People of the State of Michigan enact:

554.631 Short title.

Sec. 1. This act shall be known and may be cited as the "truth in renting act".

History: 1978, Act 454, Eff. July 1, 1979.

554.632 Definitions.

Sec. 2. As used in this act:

(a) "Rental agreement" means a written agreement embodying the terms and conditions concerning the use and occupancy of residential premises, but does not include an agreement the terms of which are limited to 1 or more of the following: the identity of the parties, a description of the premises, the rental period, the total rental amount due, the amount of rental payments, and the times at which payments are due.

(b) "Residential premises" means a house, building, structure, shelter, or mobile home, or portion thereof, used as a dwelling, home, residence, or living place by 1 or more human beings. "Residential premises" includes an apartment unit, a boardinghouse, a rooming house, a mobile home, a mobile home space, and a single or multiple family dwelling, but does not include a hotel, a motel, motor home, or other tourist accommodation, when used as a temporary accommodation for guests or tourists, or premises used as the principal place of residence of the owner and rented occasionally during temporary absences including vacation or sabbatical leave.

History: 1978, Act 454, Eff. July 1, 1979.

554.633 Rental agreement; prohibited provisions or clauses; violation.

Sec. 3. (1) A rental agreement shall not include a provision that does 1 or more of the following:

(a) Waives or alters a remedy available to the parties when the premises are in a condition that violates the covenants of fitness and habitability required pursuant to section 39 of 1846 RS 84, MCL 554.139.

(b) Provides that the parties waive a right established by 1972 PA 348, MCL 554.601 to 554.616, which regulates security deposits.

(c) Excludes or discriminates against a person in violation of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804, or the persons with disabilities civil rights act, 1976 PA 220, MCL 37.1101 to 37.1607.

(d) Provides for a confession of judgment by a party.

(e) Exculpates the lessor from liability for the lessor's failure to perform, or negligent performance of, a duty imposed by law. This subdivision does not apply to a provision that releases a party from liability arising from loss, damage, or injury caused by fire or other casualty for which insurance is carried by the other party, under a policy that permits waiver of liability and waives the insurer's rights of subrogation, to the extent of any recovery by the insured party under the policy.

(f) Waives or alters a party's right to demand a trial by jury or any other right of notice or procedure required by law in a judicial proceeding arising under the rental agreement.

(g) Provides that a party is liable for legal costs or attorney's fees incurred by another party, in connection with a dispute arising under the rental agreement, in excess of costs or fees specifically permitted by statute.

(h) Provides for the acquisition by the lessor of a security interest in any personal property of the tenant to assure payment of rent or other charges arising under the rental agreement, except as specifically allowed by law.

(i) Provides that rental payments may be accelerated if the rental agreement is breached by the tenant, unless the provision also includes a statement that the tenant may not be liable for the total accelerated amount because of the landlord's obligation to minimize damages, and that either party may have a court determine the actual amount owed, if any.

(j) Waives or alters a party's rights with respect to possession or eviction proceedings provided in section 2918 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2918, or with respect to summary

proceedings to recover possession as provided in chapter 57 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5701 to 600.5759.

(k) Releases a party from a duty to mitigate damages.

(l) Provides that a lessor may alter a provision of the rental agreement after its commencement without the written consent of the tenant, or, in the case of a rental agreement between a consumer cooperative that provides housing and a member of the consumer cooperative, without the approval of the board of directors of the cooperative or other appropriate body elected by members who are also tenants of the cooperative, except that an agreement may provide for the following types of adjustments to be made upon written notice of not less than 30 days:

(i) Changes required by federal, state, or local law or rule or regulation.

(ii) Changes in rules relating to the property that are required to protect the physical health, safety, or peaceful enjoyment of tenants and guests.

(iii) Changes in the amount of rental payments to cover additional costs in operating the rental premises incurred by the lessor because of increases in ad valorem property taxes, charges for the electricity, heating fuel, water, or sanitary sewer services consumed at the property, or increases in premiums paid for liability, fire, or worker compensation insurance.

(m) Violates the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(n) Requires the tenant to give the lessor a power of attorney.

(2) A rental agreement shall not include a clause or provision that, not less than 90 days before the execution of the rental agreement, has been prohibited by statute or declared unenforceable by a published decision of the supreme court of this state or the United States supreme court relating to the law of this state.

(3) A provision or clause of a rental agreement that violates this section is void.

History: 1978, Act 454, Eff. July 1, 1979;—Am. 1979, Act 50, Imd. Eff. July 7, 1979;—Am. 1991, Act 131, Imd. Eff. Nov. 6, 1991;—Am. 1998, Act 72, Imd. Eff. May 4, 1998.

554.634 Rental agreement; mandatory statements.

Sec. 4. (1) A rental agreement shall state the name and address at which notice required under this act shall be given to the lessor.

(2) A rental agreement shall state in a prominent place in type not smaller than the size of 12-point type, or in legible print with letters not smaller than 1/8 inch, a notice in substantially the following form:

“NOTICE: Michigan law establishes rights and obligations for parties to rental agreements. This agreement is required to comply with the Truth in Renting Act. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.”

History: 1978, Act 454, Eff. July 1, 1979.

554.635 Notices.

Sec. 5. (1) A lessor may cure a violation of section 3 by giving written notice to all tenants who are currently parties, with the lessor, to a rental agreement which contains a prohibited provision. The notice shall state that the provision is void and unenforceable or alter the provision to bring it into compliance with this act.

(2) A lessor may cure a violation of section 4 by giving written notice to all tenants who are currently parties, with the lessor, to a rental agreement which does not include a required statement. The notice shall set forth the statement as provided in section 4.

(3) Notices under this section may be given personally or sent by first class or certified mail to the tenant at the address of the leased premises.

History: 1978, Act 454, Eff. July 1, 1979.

554.636 Actions; court costs and attorney fees; joinder; actual damages; effect of judicial construction; “tenant” defined.

Sec. 6. (1) If a rental agreement contains a provision which violates section 3, and if the landlord fails to cure the violation by exercising the notice provisions of section 5 within 20 days after the tenant gives written notice to the landlord of the provision believed to be in violation and the reason therefor, a tenant may bring an action for any of the following relief:

(a) To void the rental agreement and terminate the tenancy.

(b) To enjoin the lessor from including the provision in any rental agreement subsequently entered into and to require the lessor to exercise the notice procedure provided in section 5 to cure the violation in all rental agreements in which the provision occurs and to which the lessor is currently a party.

(c) To recover damages in the amount of \$250.00 per action, or actual damages, whichever is greater.

(2) If a rental agreement fails to contain a provision as required by section 4 or contains a provision which is explicitly and unambiguously prohibited by section 3, and if the landlord fails to cure the violation by exercising the notice provisions of section 5 within 20 days after the tenant, or, where there is more than one plaintiff, each tenant, gives written notice to the landlord of the provision required by section 4 or absence of a provision believed to be in violation and the reason therefor, a tenant may bring an action for any of the following relief:

(a) To avoid the rental agreement and terminate the tenancy.

(b) To enjoin the lessor from including the provision which violates section 3 in any rental agreement subsequently entered into and to require the lessor to exercise the notice procedure provided in section 5 to cure the violation in all rental agreements in which the provision occurs and to which the lessor is currently a party.

(c) To enjoin the lessor from failing to comply with section 4 in any rental agreement subsequently entered into and to require the lessor to exercise the notice procedure provided in section 5 to cure the violation.

(d) To recover damages in the amount of \$500.00, or actual damages, whichever is greater.

(3) A tenant may exercise the remedies of this section without the prior notice to the landlord required by subsections (1) and (2) under any of the following circumstances:

(a) If a rental agreement contains a provision which has previously been determined by a court of record to be in violation of section 3 in an action to which the lessor was a party.

(b) If a rental agreement contains a provision which the lessor actually knew was in violation of section 3 at the time the rental agreement was entered into.

(c) If a rental agreement does not include a provision as required by section 4 and the lessor actually knew that the provision was not included as required at the time the rental agreement was entered into. As used in subdivisions (b) and (c), "actual knowledge" shall be established by written documentation, evidencing the actual knowledge, written or issued by the lessor or an agent of the lessor who is authorized to execute rental agreements or by an admission, evidencing the actual knowledge, made by the lessor or an agent of the lessor who is authorized to execute rental agreements or by showing the lessor has previously given notice under section 5 relating to the same provision which is the subject of the current action.

(4) A party who prevails in an action under this section is entitled to recover court costs plus statutory attorney fees.

(5) All actions brought under subsection (1) with respect to a particular provision of a rental agreement shall be joined, and only 1 judgment for damages of \$250.00 shall be awarded with respect to a particular provision even if there are multiple actions or multiple plaintiffs if, before judgment in the initial action and before the passage of 30 days after service of process in any second action, the lessor gives written notice to all tenants who are currently subject to that provision, stating that the enforceability of the provision is under dispute and may be determined by a court of law. However, this subsection does not prohibit a tenant from recovering actual damages, if any, with respect to an unlawful provision of a rental agreement. As used in this subsection, "action" means a court action instituted by a single plaintiff, a representative plaintiff, or multiple plaintiffs.

(6) If a rental agreement contains the provisions as required by section 4 but contains a provision which violates this act, solely because of a judicial construction by a court of record of a provision of a statute cited in section 3 in an action to which the lessor was a party, the lessor shall not be subject to the penalties of this act unless the lessor fails to cure the violation by exercising the notice provisions of section 5 within 30 days following the final determination by the court. For purposes of this subsection, section 39(2) of chapter 66 of the Revised Statutes of 1846, being section 554.139 of the Michigan Compiled Laws, shall not be considered to have been judicially construed as of the effective date of this act.

(7) For purposes of this section, "tenant" means a person who is currently a party to a rental agreement with the lessor.

History: 1978, Act 454, Eff. July 1, 1979.

554.637 Remedies cumulative.

Sec. 7. The remedies provided by this act shall be in addition to any other remedies provided by law, and the provisions of this act shall not limit a person's right to use any other cause of action available under law.

History: 1978, Act 454, Eff. July 1, 1979.

554.638 Printed rental agreement form; sale; violation; damages.

Sec. 8. A printed rental agreement form which fails to include a provision required by section 4, which contains a provision which expressly and unambiguously violates section 3, or which contains a provision

which, not less than 90 days before the sale, has been prohibited by statute or declared unenforceable by a published decision of the supreme court of this state or the United States supreme court relating to the law of this state shall not be offered for sale in this state by a commercial seller. A commercial seller who violates this section shall be liable for damages suffered by a purchaser of such a form in an action brought against the purchaser by a tenant under this act.

History: 1978, Act 454, Eff. July 1, 1979.

554.639 Waiver prohibited.

Sec. 9. The requirements of this act may not be waived.

History: 1978, Act 454, Eff. July 1, 1979.

554.640 Exception.

Sec. 10. This act shall not apply to a rental agreement entered into before the effective date of this act.

History: 1978, Act 454, Eff. July 1, 1979.

554.641 Effective date.

Sec. 11. This act shall not take effect until July 1, 1979.

History: 1978, Act 454, Eff. July 1, 1979.

CAMPGROUNDS

Act 162 of 1990

AN ACT to provide certain remedies to owners and operators of certain campgrounds in case of disturbances, damage to property, nonpayment of rent, or unlawful presence on certain campgrounds; to allow for a lien in favor of campground owners and operators and to provide for its enforcement; and to prescribe certain powers of law enforcement officers.

History: 1990, Act 162, Eff. Mar. 28, 1991.

The People of the State of Michigan enact:

554.651 Definitions.

Sec. 1. As used in this act:

(a) "Campground" means that term as defined in section 12501 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.12501 of the Michigan Compiled Laws, except that campground does not include land or sites operated by this state or the federal government, and does not include a membership campground.

(b) "Membership campground" means a campground that sells or offers to sell memberships that entitle persons to purchase, share ownership in, or rent a campground site or sites for a 1-time or periodic fee pursuant to a written membership contract or a purchase agreement.

(c) "Occupant" means a person who occupies a site in a campground.

(d) "Operator" means a person who owns or operates a campground, and includes the employees and agents of the person who owns or operates the campground.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.652 Removal of occupant, guest, or other individual from campground; grounds; civil rights.

Sec. 2. The operator of a campground may remove or cause to be removed from the campground, in the manner provided in this section, any occupant of the campground or guest of an occupant or other individual who, while on the premises of the campground, disturbs the peace and comfort of other occupants, who causes physical harm to the campground facilities, or who fails to pay rent at the rental rate agreed upon by the time agreed upon. However, admission to, or removal from, any campground shall not be based upon a person's religion, race, color, national origin, age, sex, height, weight, or marital status as prohibited under the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.653 Requesting occupant to depart as condition to removal from campground; contents of written request; return of unused portion of advance payment; remaining on campground as misdemeanor; penalty.

Sec. 3. Before an occupant is removed from a campground for a reason prescribed in section 2, the operator shall request that the occupant immediately depart from the campground. The request shall be in writing and shall include the reason or reasons for the request. If the occupant has paid in advance, the operator, at the time the request is given to the occupant, shall return to the occupant the unused portion of the advance payment. An occupant who remains or attempts to remain in a campground after being requested to leave for the reasons and in the manner prescribed in this act is guilty of a misdemeanor, punishable by a fine of not more than \$100.00, or imprisonment for not more than 30 days, or both.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.654 Disconnecting utilities; grounds; notice; written arrangement for payment of account; copy; payment agreement; reconnecting utilities.

Sec. 4. If an occupant has accumulated an outstanding account in excess of an amount equal to 3 nights' rent at a campground, the operator may disconnect the utilities of the occupant's recreational vehicle and give written notice to the occupant that the action is for the purpose of requiring the occupant to meet with the operator and arrange for payment of the occupant's account. The arrangement shall be in writing, and a copy shall be furnished to the occupant. Upon entering into a payment agreement, the operator shall reconnect the utilities of the recreational vehicle.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.655 Removal or arrest by law enforcement officer; service of warrant; care of personal property; refund.

Sec. 5. (1) If any occupant, guest of an occupant, or other individual engages in an act or omission for which an operator may remove a person under section 2, the operator may call upon any law enforcement officer for assistance. The law enforcement officer, upon the request of the operator, shall remove from the campground an occupant or other individual who violates in the presence of the officer section 2. If a warrant has been issued by the proper judicial officer for the arrest of any occupant or guest of an occupant, the officer shall serve the warrant, arrest the occupant or guest, and take the occupant or guest into custody.

(2) Upon arrest, with or without warrant for a violation of section 2, an occupant shall be considered to have given up any right to occupancy of the campground site, and the operator shall employ all reasonable and proper means to adequately care for any personal property which may be left on the campground site by the occupant and shall refund to the occupant any unused portion of money paid by the occupant for the occupancy of the campground site.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.656 Grounds for eviction.

Sec. 6. In addition to grounds for eviction established under this act, grounds for eviction may be established in a written lease agreement between the occupant and the operator.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.657 Lien generally.

Sec. 7. The operator has a lien upon all personal property left on the campground site for rent or other lawful charges incurred and not paid in the occupancy of the campground site, including expenses necessary for its preservation, or reasonably incurred in its sale pursuant to this act. The amount of the lien shall not exceed \$600.00. The lien attaches as of the date of nonpayment of the rent or other lawful charges.

History: 1990, Act 162, Eff. Mar. 28, 1991.

554.658 Enforcement of lien; sale of personal property; notice; advertisement; time and place of sale; redemption; inventory; lien searches; payment by prior lienholder; rights of purchaser in good faith; responsibility for procuring title; distribution of proceeds; records; donations to charity or other disposition of property; damages for noncompliance.

Sec. 8. (1) An operator's lien under section 7 shall be enforced only as provided in this section.

(2) An operator whose claim for rent or other lawful charges described in section 7 has not been satisfied may sell the personal property subject to the lien at a public sale, if the public sale conforms to this section.

(3) The occupant, and any person who is a titleholder in the personal property, shall be notified of the proposed sale of personal property to satisfy the claim of the operator by notice personally delivered or sent by first-class mail and by certified mail to the last known address of the occupant, if the occupant provided his or her address to the operator. Any person who has a lien on the personal property shall be notified of the proposed sale of the personal property to satisfy the claim of the operator by notice personally delivered or by first-class mail and by certified mail to the address of the lienholder. The notice shall include:

(a) An itemized statement of the operator's claim showing the amount due at the time of the notice and the date on which the amount became due.

(b) A demand for payment within a period of 30 days after delivery of the notice.

(c) A conspicuous statement, printed in not less than 10-point type, indicating that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale and sold. The statement shall specify the time, place, and manner of the proposed sale.

(d) A description of the personal property. If the property is a motor vehicle, watercraft, snowmobile, ORV, pickup camper, mobile home, or other titled personal property, the description shall include the vehicle identification number or other appropriate identification number.

(e) The name, address, and telephone number of the operator.

(f) If the personal property is a vehicle, watercraft, snowmobile, ORV, pickup camper, mobile home, or other titled personal property, the name and address of the titleholder and any lienholders of record.

(4) After the expiration of the 30-day period in subsection (3)(b), an advertisement of the proposed sale shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the city, village, or township in which the campground is located. If there is no newspaper of general circulation in the city, village, or township in which the campground is located, the advertisement shall be posted at least 10

days before the date of the sale in not less than 6 conspicuous places in the city, village, or township in which the campground is located. The advertisement shall include all of the following:

(a) A brief, general description of the personal property subject to the lien. The description shall reasonably identify the property, except that any container, including but not limited to a suitcase, trunk, valise, or box, that is locked, fastened, sealed, or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.

(b) The address of the campground and, if known to the operator, the name of the occupant and the name of the titleholder of the personal property.

(c) The time, place, and manner of the proposed sale.

(5) The sale shall take place not sooner than 30 days after the first publication or posting. A sale of the personal property shall be held at the campground or at the nearest suitable place.

(6) Before a sale of personal property pursuant to this section, the occupant, the titleholder, or a lienholder may pay the amount necessary to satisfy the lien, including the reasonable expenses incurred by the operator under this section, and redeem the personal property. Upon receipt of this payment, the operator shall return the personal property to the occupant, titleholder, or lienholder who made the payment, in the same condition, or substantially the same condition, as it was in when it was left at the campground by the occupant.

(7) Before a sale of personal property pursuant to this section, the operator shall complete an inventory of the personal property.

(8) Before a sale of a motor vehicle or other titled personal property pursuant to this section, the operator shall contact the appropriate agency of the federal, state, or local government where liens are recorded on that type of personal property to determine the name and address of any registered owners, titleholders, and lienholders, and the operator shall notify every such registered owner, titleholder, and lienholder of the time and place of the proposed sale. Failure to make the lien searches required by this subsection shall result in liability only to valid lienholders injured by that failure.

(9) Before a sale of personal property pursuant to this section, a holder of a prior lien on any of the property to be sold may pay the operator the amount of the operator's lien attributable to storage of the property, including the reasonable expenses incurred by the operator under this section. A payment made to the operator shall be added to the amount of the lien of the prior lienholder who made the payment, and shall be subtracted from the amount of the operator's lien.

(10) A purchaser in good faith of the personal property sold under this section takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the operator with the requirements of this section.

(11) A person who acquires a motor vehicle, boat, or recreational vehicle pursuant to this section is responsible for procuring a title to the motor vehicle, boat, or recreational vehicle from the secretary of state. The operator who conducts the sale shall provide to the purchaser, titleholder, and lienholder a signed written statement that the operator has complied with the provisions of this act regarding sales of personal property.

(12) In a sale under this section, the party conducting the sale shall distribute the proceeds in the following sequence:

(a) First, to satisfy the operator's lien pursuant to section 7, minus any amount already paid to the operator pursuant to subsection (9).

(b) Second, to satisfy outstanding balances owed to prior perfected lienholders.

(c) Third, in the case of the sale of a motor vehicle, boat, or recreational vehicle, the title to which is held by a person other than the occupant, any proceeds remaining after the distribution is made under subdivision (a) or (b) shall be returned to the titleholder of the motor vehicle, boat, or recreational vehicle.

(d) Fourth, any proceeds of the sale remaining after the distribution is made under subdivision (a), (b), or (c) shall be returned to the occupant by mailing the proceeds to the occupant's last known address by certified mail and by notifying the occupant by first-class mail. If the occupant does not claim the remaining proceeds within 2 years after the date of sale, the remaining proceeds shall escheat to the state.

(13) The operator shall maintain proper records of money received in any sale held under this section, and the records shall be subject to audit by the state.

(14) The operator shall dispose of any property offered for sale but not purchased by donating it to a charitable organization or, if the property is not accepted by a charitable organization, by any other means.

(15) An occupant who suffers damages because of an operator's failure to comply with this act may bring an action in a court of appropriate jurisdiction for the actual amount of the damages or \$250.00, whichever is greater, together with reasonable attorney's fees.

History: 1990, Act 162, Eff. Mar. 28, 1991.

FARMLAND AND OPEN SPACE PRESERVATION ACT
Act 116 of 1974

554.701-554.719 Repealed. 1995, Act 59, Imd. Eff. May 24, 1995.

LIVING CARE DISCLOSURE ACT

Act 440 of 1976

AN ACT to regulate the offer and sale of life estates, life leases, and long-term leases in nursing homes, retirement homes, homes for the aged, and foster care facilities; to prohibit fraudulent practices in relation to the offer and sale of those estates and leases; to impose regulatory duties upon the corporation and securities bureau of the department of commerce; and to provide penalties.

History: 1976, Act 440, Eff. July 1, 1977.

The People of the State of Michigan enact:

554.801 Short title.

Sec. 1. This act shall be known and may be cited as the “living care disclosure act”.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of powers and duties of the corporation and securities bureau from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.802 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 and 4 shall have the meanings respectively ascribed to them in those sections.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.803 Definitions.

Sec. 3. (1) “Bureau” means the corporation and securities bureau of the department of commerce.

(2) “Care” means furnishing shelter, food, clothing, medical attention, entertainment, or other personal advantage or attention, except to an individual related by consanguinity or affinity.

(3) “Entrance fee” means an initial or deferred payment of a sum of money or property which assures the member a place in a facility for 1 or more years or for life.

(4) “Facility” means an adult foster care facility, nursing home, retirement home, home for the aged, or a place that undertakes to provide care to an individual for more than 1 year.

(5) “Life interest” means a life lease, life membership, life estate, or other similar agreement between a purchaser and a facility by which the purchaser pays a fee for the right to occupy a space in the facility for life.

(6) “Long-term lease” means an agreement between a purchaser and a facility whereby the purchaser pays a fee for the right to occupy a space in the facility for at least 1 year, but for less than the life of the purchaser.

(7) “Member” means a purchaser of, nominee of, or a subscriber to, a life interest or long-term lease in a facility, which shall not be construed to give that individual a part ownership of the facility or voting rights in the operation of the facility.

(8) “Per capita cost” means the pro rata distribution of a facility's operating expenses as determined under rules promulgated by the bureau pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.804 Additional definitions.

Sec. 4. (1) “Offer” or “offer to sell” includes an attempt to offer to dispose of or solicitation of an offer to buy for value a life interest or long-term lease.

(2) “Order” means a consent, authorization, approval, prohibition, or requirement applicable to a specific case issued by the bureau.

(3) “Person” means an individual, corporation, partnership, joint venture, association, joint stock company, trust, or unincorporated organization.

(4) "Publish" means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

(5) "Rule" means a rule promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(6) "Sale" or "sell" includes a contract or agreement of sale of, contract to sell, or disposition of, a life interest or long-term lease in a facility.

(7) "State" means a state, territory, or possession of the United States, the District of Columbia, or Puerto Rico.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.805 Applicability of act; offer or sale of life interest or long-term lease; making offer to sell; accepting offer to sell; facility offering long-term lease or life interest as profit or nonprofit corporation; compliance with federal law; limitation on purposes of corporations.

Sec. 5. (1) This act applies to all written or oral arrangements between a facility and a member in connection with the offer or sale of a life interest or long-term lease.

(2) An offer or sale of a life interest or long-term lease is made in this state when an offer to sell is made in this state, or an offer to buy is accepted in this state, or, if the purchase is made in this state or the facility is or will be operated in this state.

(3) An offer to sell is made in this state when the offer either originates from this state or is directed by the offeror to this state and is received at the place to which the offer is directed. An offer to sell is accepted in this state when acceptance is communicated to the offeror in this state. An acceptance is communicated to the offeror in this state when the offeree directs the acceptance to the offeror in this state reasonably believing the offeror to be in this state and the acceptance is received at the place to which it is directed.

(4) An offer to sell is not made in this state merely because a publisher circulates or there is circulated on behalf of the publisher in this state a bona fide newspaper or other publication of general, regular, and paid circulation which has had more than 2/3 of its circulation outside this state during the past 12 months, or a radio or television program originating outside this state is received in this state.

(5) A facility offering a long-term lease or life interest may be organized and operated by either a profit or nonprofit corporation. However, a nonprofit corporation shall comply with the requirements of section 501(c)(3) or section 501(c)(4) of the internal revenue code. The purposes of these corporations shall be limited to ownership, organization, and operation of a facility or facilities as defined in section 3(4).

History: 1976, Act 440, Eff. July 1, 1977;—Am. 1980, Act 343, Imd. Eff. Dec. 23, 1980.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.806 Fraud and deceit.

Sec. 6. (1) A person shall not, in connection with the offer or sale of a life interest or long-term lease, directly or indirectly:

(a) Employ a device, scheme, or artifice to defraud.

(b) Make an untrue statement of a material fact or fail to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

(c) Engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person.

(2) As used in this section, "fraud" and "deceit" are not limited to the common law definitions of fraud and deceit, but include the provisions of section 6(1).

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.807 Registration required.

Sec. 7. Beginning 90 days after the effective date of this act, a person shall not offer to sell or sell a life interest or long-term lease in this state unless the facility is registered under this act.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.808 Application for registration; form; contents of disclosure statement; financial statement; signing and verification of application; type and spacing of contracts; untrue statement or omission of material fact; notice of filing; order of registration or rejection; notice of deficiencies.

Sec. 8. (1) A facility shall file an application for registration on a form prescribed by the bureau and shall include with the application 3 copies of the proposed disclosure statement which statement shall contain the following:

(a) The name and address of the facility and the name and address of an affiliated parent or subsidiary corporation or partnership.

(b) Information concerning incorporation as prescribed by the bureau.

(c) A statement of whether or not the facility of an affiliate, parent, or subsidiary is a religious, nonprofit, or proprietary organization.

(d) Information concerning the identity and experience of persons affiliated with the facility as the bureau shall prescribe.

(e) A statement of whether a person identified in the application for registration:

(i) Has been convicted of a felony or pleaded nolo contendere to a felony charge, or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property.

(ii) Is subject to a currently effective injunctive or restrictive order or federal or state administrative order relating to business activity or health care as a result of an action brought by a public agency or department, including, without limitation, actions affecting a license to operate a foster care facility, nursing home, retirement home, or home for the aged. The statement shall set forth the court or agency, date of conviction or judgment, the penalty imposed or damages assessed, or the date, nature, and issuer of the order.

(f) Financial information, updated at least annually, including the following:

(i) A summary balance sheet.

(ii) A narrative explaining material facts relating to the balance sheet.

(iii) A statement of use of proceeds.

(iv) A pro forma balance sheet where the bureau considers it appropriate.

(g) A feasibility study unless waived by the bureau.

(h) The level of participation in medicare or medicaid programs or both.

(i) A statement of all fees required of members, including a statement of the entrance fee charged, the monthly service charges, and the proposed application of the proceeds of the entrance fee by the facility, and the plan by which the amount of the initial fee is determined if the initial fee is not the same in all cases.

(j) Changes or increases in fees. When a facility changes either the scope of or the rates for care or services regardless of whether the change involves the basic rate or only those services available at additional costs to the resident, except those changes mandated by state or federal assistance programs. The facility shall give advance notice of not less than 60 days to the members before the change may be effective. The clause in the agreement which provides for monthly service fee increases by the facility shall be based upon economic necessity, the reasonable cost of operating the facility, and the cost of care.

(k) The location and description of physical property or properties essential for and proposed to be used or being used in connection with the facility's agreements to furnish care.

(l) A statement describing the services provided and the extent to which medical care is furnished.

(m) A statement describing the health and financial conditions required for a person to continue as a member.

(n) A statement setting forth the conditions upon which the facility may relet a member's room.

(o) A statement of the terms under which a life interest or long-term lease may be canceled by the member or the facility during the first 6 months of residence, and the basis for establishing the amount of refund of the entrance fee.

(p) A statement of the terms under which a life interest or long-term lease may be canceled by the member subsequent to the first 6 months of residency and the basis for establishing the amount of refund of the entrance fee.

(q) A statement describing the circumstances under which the member will be permitted to remain in the facility in the event of possible financial difficulties of the member.

(r) A statement of the fees that will be charged if the resident marries while at the facility, and a statement

of terms concerning the entry of a spouse to the facility and the consequences if the spouse doesn't meet the requirements for entry.

(s) A statement of the terms under which a life interest or long-term lease is canceled by the death of the member and the basis for establishing the amount of refund, if any, of the entrance fee.

(t) Other material information as required by the bureau.

(u) Other material information as the applicant wishes to include.

(v) A copy of the lease or membership agreement proposed to be used and all amendments to that agreement.

(w) A statement in bold type of not less than 12-point that registration does not constitute approval, recommendation, or indorsement by the bureau.

(2) The application for registration shall include a recent financial statement of the facility together with a statement of material changes in the financial condition of the facility from the date of the statement. The bureau may prescribe the form and content of the financial statements required under this act, the circumstances under which consolidated financial statements shall be filed, and the circumstances under which financial statements shall be audited by independent certified public accountants.

(3) An application for registration shall be signed and verified by the chief operating officer of the facility.

(4) The bureau may require that the applicant set forth in its disclosure statement potential adverse information in designated positions and in a type size acceptable to the bureau.

(5) The bureau shall specify the size of type and spacing in life interest or long-term lease contracts.

(6) A person shall not make an untrue statement of a material fact in an application, notice, or report filed with the bureau under this act, or omit to state in an application, notice, or report a material fact which is required to be stated therein or fail to notify the bureau of a material change as required by this act.

(7) Upon receipt of the application for registration in proper form, the bureau shall issue a notice of filing to the applicant. Within 30 days after the date of the notice of filing, the bureau shall enter an order registering the facility or rejecting the registration with notice of specific deficiencies therein. If an order of rejection is not entered within 30 days after the date of notice of filing, the facility shall be considered registered unless the applicant has consented in writing to a delay.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.809 Alternative disclosure statement.

Sec. 9. The bureau may accept, in place of the disclosure statement meeting the requirements set forth in section 8, a disclosure statement form required by a federal government agency or a government agency of another state which the bureau has determined by rule or order to meet the requirements of section 8.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.810 Lease or membership agreement; minimum provisions; termination of member; refund; providing access to adequate alternative facility.

Sec. 10. (1) The lease or membership agreement at a minimum shall include the following provisions:

(a) If a member dies before occupying the facility, or through illness, injury, or incapacity would be precluded from being a resident under the terms of the lease, membership is automatically canceled and the member or a legal representative of the member shall receive a full refund of all money paid to the facility except those costs specifically incurred by the facility at the request of the member and set forth in writing in a separate addendum to the agreement and signed by both parties.

(b) If a resident places funds with a facility for future care before occupancy, the funds shall be placed in an escrow or trust account unless this requirement is waived or modified by the bureau. Any interest or other income from the investment of the funds shall accrue to the benefit of the resident. The bureau may by rule or order determine the conditions of any escrow or trust account. A petition for waiver or for discontinuance or other modification of the escrow requirement shall be submitted by the chief operating officer of a facility or facilities together with, unless previously provided in the registration application, a pro forma financial plan and documentation evidencing availability of adequate resources to fund the facility's capital expenditures, debt service, refund of unearned portion of entrance fees, operating costs, facility maintenance, and other costs and expenses projected for not less than 5 years. Documentation shall include the following, if applicable:

(i) Audited financial statements for the facility's most recent 4 fiscal years and financial statements for any portion of the current fiscal year ending within 90 days after the date of filing. The bureau may by order waive or modify this requirement.

(ii) Commitments for construction and permanent loan financing together with a copy of an adequate construction bond.

(iii) Irrevocable lines or letters of credit, other irrevocable instruments of credit, confirmations of deposits or proceeds of sales of securities, leases, or evidences of any other valid commitments or income.

(iv) Assumptions and the basis of schedules for attrition rates; occupancy rates; refund of unearned portion of entrance fees; debt service; operating expenses; and operating income.

(v) A commitment to notify the bureau promptly in writing of a change in the information submitted under this subdivision.

(c) During the first 6 months of residency, a resident, upon 30 days' written notice, may cancel his or her membership and shall receive a refund of the entrance fee, as provided for in subdivision (e)(i) or (ii), if the resident vacates the facility not more than 30 days after giving notice. If the required notice is given within the first 30 days, the resident shall receive a refund of all but the actual cost of care and the actual cost of refurbishing the unit for resale. If the required notice is given after the first 30 days, the facility may deduct the per capita costs or the actual cost of care, a sales expense not to exceed 10% of the entrance fee up to the first \$15,000.00, as indicated in the disclosure statement, and the actual cost of refurbishing the unit for resale.

(d) After the first 6 months of residency, a resident may cancel the residency, upon 90 days' written notice, or upon less than 90 days' written notice if by written agreement of the parties. The resident shall be refunded an amount equal to the difference between all amounts paid in by the resident and the cost of caring for the resident based upon the facility's per capita cost and the sales cost in conjunction with the original lease and the cost of refurbishing.

(e) Refunds shall be made as follows:

(i) If the required notice is given during the first 5 months of residency, the refund shall be made within 30 days after the notice is given.

(ii) If the required notice is given during the sixth month of residency, the refund shall be made within 30 days after the member leaves the facility or upon resale, whichever occurs first.

(iii) If the required notice is given after the initial 6 months of residency, the refund shall be made within 45 days after notice or upon resale of the unit, whichever occurs first.

(2) If the facility terminates a member without good cause, the member is entitled to an immediate refund, upon vacating the unit, of an amount set forth in the agreement which was approved by the bureau. The facility may provide access to an adequate alternative facility which will provide care for the member, in place of or in mitigation of any damages.

(3) A facility shall not terminate a member without 30 days' notice unless the facility provides access to an adequate alternative facility. A member terminated by the facility for cause shall receive a refund in the same manner as if the member had provided notice pursuant to subsection (1).

History: 1976, Act 440, Eff. July 1, 1977;—Am. 1980, Act 343, Imd. Eff. Dec. 23, 1980.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.811 Arbitration of dispute, claim, or grievance; waiver.

Sec. 11. (1) A dispute, claim, or grievance arising between a resident and the facility, except as provided below, shall upon election and written consent of the parties be submitted to arbitration and the parties shall accept the arbitrator's decision as final and binding. The rules of the American arbitration association, as amended, and in effect at the time of the dispute, claim, or grievance, shall be applicable to the arbitration.

(2) A condition, stipulation, or provision binding a resident to waive compliance with any provision of this act, a rule promulgated, or an order issued under this act is void. In those cases neither a resident nor the facility shall be precluded from petitioning the courts to resolve any other dispute, claim, or grievance.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.812 Resident as advisory member of board of directors.

Sec. 12. Each facility shall appoint at least 1 resident, elected by the other residents, to the board of directors as an advisory member who shall be notified in advance of all board meetings and invited to attend.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.813 Conservators or guardians.

Sec. 13. If a resident becomes mentally or physically incapacitated and is unable to handle his own personal or financial affairs, the facility may petition a court of competent jurisdiction to appoint an independent conservator or guardian.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.814 Order temporarily suspending repayment of entrance fee.

Sec. 14. The registrant may temporarily suspend repayment of an entrance fee under an order of a court or the bureau for not more than 180 days, upon a showing of good cause by the registrant and proof that further payment would jeopardize the care to members in the facility. The order may be extended upon a showing of substantial progress in resolving the financial difficulties of the registrant.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.815 Exemptions from registration requirements.

Sec. 15. The bureau by rule or order may exempt from registration requirements, in whole or in part, a transaction or person, firm, corporation, or industry. In determining whether an exemption shall issue, the bureau shall consider whether information which would be required to be disclosed in a registration would be material in determining whether the facility has a reasonable chance of success and whether the exemption is in the public interest.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.816 Pro forma financial plan; filing; deposit with escrow agent; surety bond or guaranty; temporary suspension of sales; entrance fees as capital in calculating solvency.

Sec. 16. The applicant shall file a pro forma financial plan with the bureau, subject to the approval of the bureau. If the bureau finds that the financial condition of the facility may jeopardize the care of members, or the facility is insolvent as it is unable to meet its obligations as they accrue or its liabilities exceed its assets, or that the facility appears in jeopardy of becoming insolvent, or if the facility is not meeting its pro forma financial plan, the bureau may require a reasonable deposit with an escrow agent acceptable to the bureau of an amount deemed necessary for the facility to fulfill its obligation, or, at the option of the facility, the furnishing of a surety bond or guaranty as approved by the bureau, if it finds that the requirement is necessary and appropriate to protect prospective members. The bureau may summarily order the temporary suspension of life interest and long-term lease sales, pending a hearing in accordance with section 18. For purposes of calculating solvency under this section, entrance fees may be considered as capital of the facility to the extent that the entrance fees have been earned or based on the formula set forth in the contract that the reasonable expectancy is that they will be earned based on a continuation of the present plan of operation of the facility.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.817 Notice of intent to issue stop order denying, suspending, or revoking registration; grounds.

Sec. 17. The bureau may enter a notice of intent to issue a stop order denying, suspending, or revoking the effectiveness of a registration if it finds that the order is in the public interest and finds at least 1 of the following:

(a) The application for registration or the effective registration statement is incomplete in a material respect

or contains a statement which was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact.

(b) The applicant, or its agent, or employee has violated this act or an order or rule of the bureau.

(c) The offering is not fair, just, and equitable or has worked or tended to work a fraud or imposition or would so operate, or the terms of the offering would create an unreasonable risk to members as defined by rules.

(d) The applicant's method of business includes or would include activities which are violations of law where performed.

(e) A person identified in the application who has engaged in conduct described in section 8(1)(e), involving the illegal offering of life interests, long-term leases, franchises, or securities and the bureau determines that the involvement of the person in the sale of leases or management of the facility creates an unreasonable risk to members.

(f) The applicant is the subject of a permanent or temporary injunction entered under a federal or state act which injunction is applicable to the offering.

(g) The applicant has failed to pay the proper fee.

(h) The applicant has failed to diligently process its registration application with the bureau.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.818 Notifying applicant of stop order; hearing; vacating or modifying stop order.

Sec. 18. (1) Upon the entry of a notice of intent to issue a stop order, the bureau shall promptly notify the applicant by registered or certified mail that it has been entered, the reasons for the stop order, and that, upon receipt of written request, the matter will be set down for hearing to commence within 45 days after the receipt unless the applicant consents to a later date. If a hearing is not requested within 15 days and none is ordered by the bureau, a stop order shall issue and remain in effect until it is modified or vacated by the bureau. If a hearing is requested or ordered, the bureau, after notice and hearing, may enter a stop order or modify or vacate the order or extend it until its final determination.

(2) The bureau may vacate or modify a stop order if it finds that the conditions which caused its entry have changed or that it is otherwise in the public interest to do so.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.819 Right to rescind purchase of life lease or long-term lease; retention of funds in separate escrow account; moving into facility.

Sec. 19. A purchaser of a life interest or a long-term lease which is subject to registration under this act shall have the right to rescind the purchase of a life lease or long-term lease within 7 days, without penalty, after making an initial deposit or executing the agreement, and after receipt of a copy of the disclosure statement. During the 7-day period a purchaser's funds shall be retained in a separate escrow account under terms approved by the bureau. A person shall not be required to move into the facility before the expiration of the 7-day period.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.820 Registration of life interest or long-term lease offering.

Sec. 20. A life interest or a long-term lease offering shall be registered for a period of 1 year after the effective date of the registration unless the bureau specifies a different period.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.821 Registration renewal statement; form and content; automatic renewal.

Sec. 21. (1) A registration may be renewed for additional periods of 1 year each, unless the bureau by rule or order specifies a different period, by submitting to the bureau a registration renewal statement not later than

30 business days before the expiration of the registration unless the period is waived by order of the bureau. If a stop order or other order is not in effect, or the registrant has not requested and been granted a waiver, registration of the facility automatically becomes renewed effective at 12 noon of the date on which the prior registration is due to expire, or at an earlier time as the bureau determines.

(2) The registration renewal statement shall be in the form and content prescribed by the bureau. Each registration renewal statement shall be accompanied by the fee prescribed by this act and the changes made in the disclosure statement.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.822 Material change in information; application to amend registration; revised disclosure statement; effective date of amendment; semiannual financial statements; financial information or reports.

Sec. 22. (1) A registrant shall notify the bureau promptly in writing by an application to amend the registration, of a material change in the information contained in the application as originally submitted, amended, or renewed. The bureau may further define by rule what is a material change for the purposes and circumstances under which a revised disclosure statement shall accompany the application.

(2) An amendment to an application filed after the effective date of the registration if the amendment is approved by the bureau, shall become effective on the date the bureau may determine, having due regard for the public interest and the protection of prospective members.

(3) A registrant shall file with the bureau semiannual financial statements, and other financial information or reports as the bureau may reasonably require.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.823 Account of sales; reports and records; examination; opinions, appraisals, and reports of experts on questions affecting interests proposed to be offered or sold; failure to furnish information; investigation; expenses; disposition of fees.

Sec. 23. (1) A facility offering life interests, long-term leases, or both, for sale in this state shall keep and maintain accounts of the sales in accordance with generally accepted accounting principles and shall make and file with the bureau reports as the bureau may by rule or order prescribe, including an annual report setting forth the life interests or long-term leases sold by it and the proceeds derived from those sales. These records are subject to reasonable periodic, special, or other examinations by a representative of the bureau, within or without this state, as the bureau deems necessary or appropriate in the public interest or for the protection of prospective members.

(2) The bureau may consider the opinions, appraisals, and reports of engineers, appraisers, or other experts which may be presented by an applicant or an interested party, on a question of fact concerning or affecting the interests proposed to be offered and sold. If information that the bureau considers necessary relating to the facility is requested by the bureau and is not furnished by the applicant, or the bureau considers information submitted to be unreliable or substantially incomplete, the bureau may have any or all matters concerning or affecting those interests investigated, appraised, passed upon, and certified to it by engineers, appraisers, or other experts selected by it.

(3) If information that the bureau considers necessary relating to a life interest or long-term lease is requested by the bureau and is not furnished by the applicant, or the bureau considers information submitted to be unreliable or substantially incomplete, the bureau may investigate any or all matters concerning or affecting the life interest or long-term lease. The cost of reasonable actual travel and lodging expenses relating to investigations outside of this state shall be borne by the applicant and shall be paid to this state before the applicant's registration becomes effective. The fees received under this section shall be deposited in the state treasury to a special fund to be used by the corporation and securities bureau in carrying out the duties required by this subsection.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.824 Effect of application for registration being filed or becoming effective.

Sec. 24. (1) The fact that an application for registration under this act has been filed or has become effective does not constitute a finding by the bureau that a document filed under the act is true, complete, or not misleading. That a registration has been filed or has become effective does not mean that the bureau has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, life interest, long-term lease, transaction, or facility.

(2) A person shall not make or cause to be made to a prospective member or offeree a representation inconsistent with this section.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.825 Service of process generally.

Sec. 25. An applicant for registration under this act, other than a domestic corporation, shall file with the bureau, in the form as the bureau prescribes an irrevocable consent appointing the bureau to be its attorney to receive service of lawful process in a noncriminal action or proceeding against it or its successor, executor, or administrator, which arises under this act or a rule or order promulgated or issued under this act after the consent has been filed, with the same force and validity as if served personally on the person filing consent. Service may be made by leaving a copy of the process in the office of the bureau but it is not effective unless the plaintiff, who may be the bureau in an action or proceeding instituted by it, immediately sends notice of the service and a copy of the process by certified mail to the defendant or respondent at its last address on file with the bureau and the plaintiff's affidavit of compliance is filed in the action, on or before the return day of the process, if any, or within that further time as the court may allow.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.826 Requirements before use of disclosure statement, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication; requirements for publication of advertisement; liability of publisher.

Sec. 26. (1) The bureau by rule or order may require the filing and approval before use of a disclosure statement, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective members. Within 10 business days after the date of receipt of the documents listed in this section, the bureau shall enter an order approving or rejecting the documents. If an order or rejection is not entered within 10 days after the date of receipt, the documents shall be deemed approved unless the applicant has consented in writing to a delay.

(2) A person shall not publish an advertisement offering a life interest or long-term lease subject to the registration requirements of this act unless a true copy of the advertisement has been filed with the bureau at least 10 business days before the first publication or a shorter period as the bureau may allow or unless the advertisement has been exempted by rule of the bureau. The bureau may require, by rule, that the advertising be registered and that the advertising display a registration number.

(3) This act shall not impose liability, civil or criminal, upon a person or publisher regularly engaged in the business of publishing a bona fide newspaper or operating a radio or television station, and acting solely in his official capacity, who publishes an advertisement in good faith and without knowledge that the advertisement or publication constitutes a violation of this act.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.827 Conduct and qualifications of agents; rules.

Sec. 27. The bureau shall not license, but may promulgate rules relating to the conduct and qualifications of life interest and long-term lease sales agents.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.828 Notice of intent to issue cease and desist order; issuance; hearing; order of censure; violation; penalty; separate offenses.

Sec. 28. (1) If, in the opinion of the bureau, a life interest or long-term lease is being or has been offered for sale without complying with this act or an order of the bureau issued pursuant to this act or a rule promulgated under this act, the bureau may issue to the facility or offeror of the interest a notice of intent to issue an order of cease and desist from the further offer or sale of the life interest or long-term lease unless and until the offer is made in compliance with this act. If, after the notice of intent has been made, a written request for a hearing is filed by the person to whom the notice was directed, a hearing shall be held under the procedures prescribed in Act No. 306 of the Public Acts of 1969, as amended. After the hearing, or in the event that respondent fails to appear at the hearing, after notice and personal service, the bureau may issue a cease and desist order with appropriate conditions or may enter an order of censure or find that a violation of the law has not occurred. The date for hearing shall be set within 15 business days after receipt of the request for hearing, and the designated hearing date shall be not more than 45 days after the date of request for hearing unless the person affected consents to a later date.

(2) A facility or agent of a facility who knowingly authorizes, directs, or aids in violation of a final cease and desist order, or who knowingly fails to comply with the terms of a final cease and desist order, and may be fined not more than \$5,000.00. Each violation constitutes a separate offense.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.829 Liability to person purchasing life interest or lease; rescission as bar to action.

Sec. 29. (1) A person who offers or sells a life interest or long-term lease in violation of sections 6(1), 7, or 17 is liable to the person purchasing the life interest or lease for damages and repayment of all fees paid to the facility less the reasonable cost of rental and care provided until discovery or until the violation should reasonably have been discovered and with interest at 6% from the date of purchase and reasonable attorney fees and court costs.

(2) A person may not file or maintain an action under this section if the person received an offer approved by the bureau before filing the action to refund the entrance fee together with interest at 6% per year from the date of purchase less the reasonable cost of rental and care provided until discovery, and the member failed to accept the offer within 30 days of its receipt. At the time a facility makes written offer of rescission, the facility shall file a copy with the bureau. The rescission offer shall recite the provisions of this section.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.830 Joint and several liability.

Sec. 30. A person who directly controls a person liable under this act, a partner in a firm liable under this act, a principal executive officer or paid director or trustee of a corporation liable under this act, a person occupying a similar status as an executive officer or director performing similar functions, or an employee of a person liable under this act who materially aids in the act or transaction constituting the violation is also liable jointly and severally with and to the same extent as the person who violates this act, unless the person did not have knowledge of or reasonable grounds to believe in the existence of the facts by reason of which the liability is alleged to exist.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.831 Limitations.

Sec. 31. An action shall not be maintained to enforce a liability created under this act unless brought before the expiration of 3 years after the date of the act or transaction constituting the violation.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.832 Civil liability by implication; common law or other statutory liability not limited.

Sec. 32. Except as explicitly provided in this act, civil liability in favor of a private party shall not arise against a person by implication from or as a result of the violation of this act or a rule or order promulgated or issued under this act. This act shall not limit a liability which may exist by virtue of any other statute or under common law if this act were not in effect.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.833 Powers of bureau; circuit court orders; contempt.

Sec. 33. (1) The bureau may:

(a) Make public or private investigations within or without this state it considers necessary to determine if a person has violated or is about to violate this act or a rule or order promulgated or issued under this act, or to aid in the enforcement of this act or in the prescribing of rules and forms under this act, and may publish information concerning the violation of this act or a rule or order.

(b) Require or permit a person to file a statement under oath or otherwise as the bureau requires in writing as to all the facts and circumstances concerning the matter to be investigated. Failure to reply with all required information to a letter from the bureau within 15 days after receipt of the letter shall be the basis for issuance of a cease and desist order.

(2) For the purpose of an investigation or proceeding under this act, the bureau or an officer designated by it may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the bureau considers relevant or material to the inquiry. Before any of the requirements of subsection (2) become operative, the bureau must obtain an order of the circuit court for said information by a showing that there is good cause that a violation has taken place or is about to take place and all of the subpoenas or orders must issue from said circuit court.

(3) In case of contumacy by, or refusal to obey a subpoena issued to a person, the circuit court, upon application by the bureau, may issue to the person an order requiring him to appear before the bureau, or an officer designated by it, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or question. Failure to obey the order of the court may be punished by the court as a contempt.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.834 Injunction, restraining order, or writ of mandamus; appointment of receiver or conservator; bond.

Sec. 34. When it appears to the bureau that a person has engaged or is about to engage in an act or practice constituting a violation of this act or a rule or order promulgated or issued under this act, the attorney general may bring an action in the name of the people in the circuit court to enjoin the acts or practices or to enforce compliance with this act or the rule or order. Upon a proper showing a preliminary or permanent injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the bureau to post a bond.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.835 Proceedings by attorney general or prosecuting attorney.

Sec. 35. The bureau may refer information relating to the violation of this act or a rule or order promulgated or issued under this act to the attorney general or to the prosecuting attorney of the county in which the violation occurred, who may, with or without the reference, institute appropriate proceedings.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.836 Violation; penalty; conduct constituting crime under other statute.

Sec. 36. A person who knowingly violates this act shall be fined not more than \$10,000.00, or imprisoned for not more than 7 years, or both. This act shall not limit the power of the state to punish a person for conduct which constitutes a crime under any other statute.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.837 Service of process where conduct prohibited or made actionable by act or rule.

Sec. 37. When a person, including a nonresident of this state, engages in conduct prohibited or made actionable by this act or a rule or order promulgated or issued under this act, whether or not a consent to service of process has been filed and personal jurisdiction cannot otherwise be obtained in this state, that conduct shall be considered equivalent to the appointment of the bureau to be the attorney to receive service of a lawful process in a noncriminal action or proceeding against the person or a successor, executor, or administrator which action or proceeding grows out of that conduct and which is brought under this act or any rule or order promulgated or issued under this act, with the same force and validity as if served on the person personally. Service may be made by leaving a copy of the process in the office of the bureau, but it is not effective unless the plaintiff, which may be the bureau in an action or proceeding instituted by it, immediately sends notice of the service and a copy of the process by certified mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice and the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within further time as the court allows.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.838 Fees.

Sec. 38. (1) The bureau shall charge and collect the fees fixed by this section. Fees and charges collected under this section shall be transmitted to the state treasurer at least weekly, accompanied by a detailed statement of those fees and charges and shall be credited to the general fund.

(2) The fee for filing an application for registration of the offer or sale of life interests and long-term leases shall be \$250.00. When an application for registration is withdrawn before the effective date or a stop order is issued before the effective date of a registration, the bureau shall retain a fee of \$25.00 if the initial review has not been commenced and the full filing fee after review has commenced. The renewal registration fee shall be \$100.00.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.839 Rules.

Sec. 39. The bureau shall promulgate rules to implement this act.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.840 Public inspection of documents; disclosure of information.

Sec. 40. Applications, reports, and other papers and documents filed by applicants or registrants or experts or appraisers with the bureau under this act shall be open to public inspection, except that the bureau may withhold from public inspection information the disclosure of which is not necessary in the public interest or for the protection of purchasers. The bureau may publish information filed with it or obtained by it, if the action is in the public interest. The bureau or its examiners, investigators, assistants, clerks, or deputies shall not disclose information withheld from public inspection except among themselves or when necessary or appropriate in a proceeding or investigation under this act or to other federal or state regulatory agencies.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.841 Reproduction of public records; certified copy of document as prima facie evidence.

Sec. 41. (1) Upon request and at reasonable charges as it prescribes, the bureau shall furnish to a person a reproduction pursuant to the records media act, certified under the seal of office if requested, of a document that is retained as a matter of public record, except that it shall not charge or collect a fee for a reproduction of a document furnished to a public officer for use in his or her official capacity.

(2) In a judicial proceeding or prosecution, a certified copy is prima facie evidence of the contents of the document certified and may be used for all purposes in place of the original.

History: 1976, Act 440, Eff. July 1, 1977;—Am. 1992, Act 193, Imd. Eff. Oct. 5, 1992.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.842 Destruction of applications, orders, files, and folders as useless or obsolete; permanent record of disciplinary action; retention of reproductions.

Sec. 42. (1) The bureau may destroy an application or order, together with the files and folders, as useless or obsolete, not less than 6 years after the date of filing or issuance, with the approval of the department of management and budget. The bureau shall maintain a permanent record of any disciplinary action taken by the bureau.

(2) A reproduction, retained by the bureau in a medium pursuant to the records media act, of a record destroyed under this section or a reproduction consisting of a printout or other output readable by sight from such a medium shall be accepted for all purposes as equivalent to the original if certified by the bureau.

History: 1976, Act 440, Eff. July 1, 1977;—Am. 1992, Act 193, Imd. Eff. Oct. 5, 1992.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.843 Submitting information in compliance with MCL 554.808.

Sec. 43. A facility may submit information prepared in compliance with section 8 on the effective date of this section.

History: 1976, Act 440, Eff. Apr. 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

554.844 Effective dates.

Sec. 44. This act, except section 43, shall take effect July 1, 1977. Section 43 shall take effect April 1, 1977.

History: 1976, Act 440, Eff. July 1, 1977.

Compiler's note: For transfer of statutory authority, powers, duties, and functions of the corporations, securities and land development bureau to the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**DISCLAIMER OF PROPERTY INTERESTS ACT
Act 131 of 1996**

554.871-554.890 Repealed. 1998, Act 386, Eff. Apr. 1, 2000.